



राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्य शासन द्वारा प्रकाशित

शिमला, शुक्रवार, 1 फरवरी, 2008 / 12 माघ, 1929

हिमाचल प्रदेश सरकार

TRANSPORT DEPARTMENT

CORRIGENDUM

Shimla-2, the 30th January, 2008

NO: TPT-C(9)2/2007.— In this department notification of even number dated 24/12/2007 regarding granting exemption from the payment of tax levied under Section-3 of the Himachal Pradesh Motor Vehicles Taxation Act, 1972, to the owner of tractor mentioned therein, the tractor NO: “HP-12-B-6792 and owner name i.e Sh. Abdul Gaffar, S/O Shri Babu Khan, Village- Nanowal Tapprian, Tehsil-Nalagarh, District- Solan, Himachal Pradesh may kindly be read as “Tractor NO:HP-18-A-4018 owned by Sh. Jai Pal Singh S/O Sh. Jag Mohan Singh, District- SImrour, Himachal Pradesh.

By order,

Sd/-

Additional Chief Secretary.

LABOUR & EMPLOYMENT DEPARTMENT**NOTIFICATION***Shimla-2, the 23th January, 2008*

No: Sharm (A)7-1/2005(SML).— In exercise of powers vested in him under section -17(1) of the Industrial disputes Act, 1947, the Governor, Himachal Pradesh is pleased to order the publication of awards announced by the Presiding Officer, Labour Court, Shimla of the following cases on the. Website of Labour & Employment Department :-

Sr. No:& Case No 1	Title of the Case 2	Date of Award 3
1. 40/2005	Sh. Rangi Ram V/S Divisional Forest Officer, Theog, Distt. Shimla	11/10/2007
2. 54/2007	Sh. Hari Nand V/S The Divisional Manager, HRTC, Shimla	4/10/2007
3. 30/2006	Sh. Mast Ram V/s The Executive Engineer, HPPWD Chaura Madan, Shimla -4.	6/10/2007
4. 93/2006	President/ General Secretary, Army Public School Worker Union V/S Chairman Army Public School, Dagshai, Distt. Solan.	9/10/2007
5. 162/98	Shri Amar Singh V/S General Manager, The Tribunal Daily News Paper, Chandigarh	22/10/2007
6. 156/2006	Sh. Naresh Kumar & other V/S Managing Director, M/S Royal Biscuits Factory Parwanoo, Distt. Solan.	23/10/2007
7. 68/2005	Sh. Rajeev Sharma V/S Manager M/S Glied Impex Jharmajri, Berotiwal, Distt. Solan	10/10/2007
8. 84/2003	Sh. Ramesh Chand V/S Executive Engineer HPSEB, Rampur Distt. Shimla	23/10/2007
9. 3/1999	Sh. Kaka Ram & Ors V/S The Executive Engineer HPPWD Haripurdhara & Anr.	3/10/2007
10. 176/2002	Sh. Krishan Chand V/S Regional Manager, HRTC, Nahan.	30/10/2007
11. 204/2003	Sh. Ramesh Kumar V/S The Sub-Divisional Officer, Dodra Kwar & Anr.	1/10/2007
12. 41/2005	She. Dila Ram V/S M/S Ta-Tong Chinese Shoes, Shop-20, The Mall, Shimla	8/10/2007

13. 104/2006	Sh. Dinesh Chauhan V/S M/S Devina Dabra Prop. Hotel D- Chalet Bloosm Hills, Vill. Kano. P.O. Nagali via Chail Tehsil Kandaghat Distt. Solan.	4/10/2007
14. 150/2003	Sh. Baldev Singh V/S The Executive Engineer, Irrigation and Public Health Division, Saproon, Distt. Solan.	31/10/2007
15. 295/2002	Smt. Rajni Gupta V/S M/S General Manager, HRTC, through its General Manager, Shimla	18/9/2007

By order,
Sd/-
Secretary.

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla-2, the 23rd January, 2008

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Sr. No:& Case No 1	Title of the Case 2	Date of Award 3
1. 337/2003	Sh. Inder Pal V/S Factory Manager, Management of M/S Samtal India Ltd., Parwanoo, Distt. Solan	3/9/2007
2.150/2006	Kumari Thawali Devi V/S Chief Medical Officer, Shimla	24/9/2007
3. 6/2005	Sh. Surinder Thakur V/S Management of M/S Green Vally Frozen Food Ltd., Kala Amb Distt. Sirmaur	24/9/2007
4. 144/2006	Sh. Sanjeev Sharma V/S General Manager M/S Nitiraj Pvt. Ltd. Plot No-41, Sector-2, Parwanoo, Distt. Solan.	19/9/2007
5. 62/2007	President H.R.T.C. (Driver Conductor) Operation Staff Union V/S M.D. HRTC, Shimla	29/9/2007
6. 66/2006	Sh. Desh Raj V/S The Executive Engineer, HPPWD, Electrical Division IGMC, Shimla	21/9/2007

7. 28/2003	G.M./ M.D. BCC Fuba Ltd. V/S Shri Achhar Singh	20/9/2007
8. 357/2002	Sh. Ganesh Tiwari V/S M/S Deepak Spinners Baddi Distt. Solan.	7/9/2007
9. 37/2005	Sh. Vinod Kumar & Anr. V/S The Supdt. Engineer HPPWD Rampur.	6/9/2007
10. 10/2003	Sh. Krishan Singh V/S The Executive Engineer, Division No.-1 HPPWD Winter Field ,Shimla	20/9/2007

By order,
Sd/-
Secretary.

LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

Shimla-2 , the 23rd January, 2008

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Sr. No:& Case No 1	Title of the Case 2	Date of Award 3
1. 85/2007	Sh. Varinder Kumar V/S General Manager, M/S Pronta Starring Ltd. Parwanoo, Distt. Solan H.P.	26/11/2007
2. 130/2006	Sh. Pawan Kumar V/S Managing Director, M/S Sinar Bulbs & Tubes (P) Ltd, Barotiwala Distt Solan.. .	2/11/2007
3. 338/2003	Sh. Pritam Chand V/S M/S Samtal India Ltd, Parwanoo Distt Solan.	6/11/2007
4.6/2002	Sh. Bhawani Shankar V/S The D.F.O. Poanta Sahib, Distt. Sirmaur H.P.	3/11/2007
5. 173/2003	Sh. Shyam Lal V/S Baljee's Cantners (P) Ltd, Shimla	19/11/2007
6. 164/2001	Sh. Roop Lal V/S The Executive Engineer, HPSEB. Rajgarh, Distt. Sirmaur.	6/11/2007
7. 105/2006	Sh. Nand Lal V/S Managing Director, M/S Hi-Volt Magnet Wires (P) Ltd., Baddi, Distt. Solan.	14/11/2007

8.52/2007	Sh. Manoj Kumar V/S Management M/S Sintex Industries Ltd., Baddi Distt. Solan H.P.	26/11/2007
9. 58/2004	Sh. Sita Ram V/S The General Manager M/S Sidhartha Super Spinning Mills Ltd., Nalagarh Distt. Solan.	7/11/2007
10. 113/2006	The President Mohan Meakin Staff Union V/S The Managing Director Mohan Meakin Ltd., Gaziabad (U.P.)	15/11/2007
11.66/2007	Sh. Manoj Kumar V/S The Managing Director M/S Khaithan Manufacturing Com. Baddi. Distt. Solan.	28/11/2007
12. 39/99	Sh. Diwan Chand V/S M/S Khanna Watches Ltd, Parwanoo, Distt. Solan.	27/11/2007
13. 98/2006	Sh. Chain Singh V/S M/S Ashoka Spinners Ltd Baddi. Distt. Solan.	27/11/2007
14. 90/2006	Sh. Kishori Lal V/S Managing Director Ashoka Spinners Ltd, Baddi. Distt. Solan	27/11/2007
15. 106/2001	Smt. Sumitra DEvi V/S The Managing Director, M/S United Vanaspati Ltd. Majhauri, Tehsil, Nalagarh, Distt. Solan.	1/11/2007
16. 58/2006	Sh. Leela Dutt Sharma V/S President/ Secretary M/S Shiv Dayal Dharamshala Trust (Regd) The Mall Solan,	14/11/2007
17. 51/2002	Sh. Pawan Kumar V/S The Divisional Manager, Himachal Pradesh Road Transport Corporation. Division Office, Parwanoo, Distt. Solan. H.P.	17/11/2007
18. 229/2002	Sh. Kailash Chand Gupta V/S Factory Manager M/S Birla Textile Mills Sai Road Baddi, Distt. Solan.	26/11/2007
19. 163/2002	Sh. Pritam Singh V/S The Divisional Manager, HRTC, Divisional Workshop Tara Devi, Shimla	17/11/2007
20. 135/2001	Sh. Sunil Dutt Bakshi V/S Managing Director M/S Dabar India Ltd Baddi, Distt Solan	7/11/2007
21. 37/2002	Sh. Bhopal Singh V/S M/S Nahan Ferro Alloys and Chemical (Pvt.) Ltd Kala Amb. Distt. Sirmaur.	27/11/2007
22. 54/2004	Sh. Kaka Singh V/S Managing Director, HRTC, Shimla & Anr.	12/11/2007
23. 155/2006	Smt. Vidya Devi V/S The Managing Director, M/S Brass & Gold Engineering Baddi, Nalagarh, Solan.	14/11/2007

By order,
Sd/-
Secretary.

In the Court of L.N Sharma, Presiding Judge, H.P. Industrial Tribunal –cum- labour Court, Shimla.

Ref. No: 37 of 2005.

Instituted on: 11.4.2005.

Decided on: 6.9.2007.

1. Shri Vinod Kuamr, S/o Shri Puran Dutt, R/o Village Thach, P.O Kangal, Tehsil Kumarsain, District Shimla, H.P.

2. Shri Padam Dev, S/o Shri Puru Ram, R/o Village Dhenu, P.O Shiwan, Tehsil Kumarsain, District Shimla, H.P. *..Petitioners.*

Versus

1. Superintending Engineer, HPPWD Circle Rampur, District Shimla, H.P.

2. Superintending Engineer, HPPWD (B&R) Division Rampur, District Shimla, H.P. *..Respondents.*

Reference under Section 10 of the Industrial Disputes Act, 1947

For petitioner: Shri R.K Khidta,, Advocate.

For respondent: Shri T.C Kainthla, AR.

AWARD

The following reference has been received for adjudication from the appropriate government:

“Whether the termination of services of Shri Vinad Kumar, S/o Shri Puran Dutt. And Padam Dev S/o Shri Purthu Ram workman by the Executive Engineer HPPWD (B&R) Division Rampur Bushehar, District Shimla w.e.f. September 1998 without complying with the provisions of the Industrial Disputes Act, 1947 and rules made there under is proper and justified? If not, what relief of service benefits the above aggrieved workman are entitled to?

2. The petitioners have filed the claim alleging that petitioner Vinod Kumar was engaged as Draughtsman on 22.12.1997 and he worked in Taklech division till 21.1.1999 without any break. Similarly, petitioner No-2 Shri Padam Dev was engaged on 2.3.1998 and he worked till 21.1.1999 at Taklech without any break. The petitioners were not paid their wages for the month of August, October, and November 1998 and the petitioners were apprehending their removal from service and they approached the Administrative Tribunal but during the pendency of the case their services were orally terminated on 29.1.1999. Their case was listed for final hearing before the Administrative Tribunal on 8.7.2004 and the same was withdrawn as the Administrative Tribunal was having no jurisdiction to entertain the case. The petitioners have completed 240 days in each calendar year and the services of the petitioners have been orally terminated by the respondent. The respondent has terminated the services of the petitioner without any notice and payment of

retrenchment compensation. The petitioners have approached the respondent for their re-engagement but they are not taken back in the job.

The action of the respondent department is against the Provisions of Industrial Disputes Act, 1947 and also against the principle of natural justice. Their services were terminated because they have approached the Administrative Tribunal for relief. The petitioners are qualified Draughtsman (civil) and they were doing work of Draughtsman from the first date when they joined their services with the respondent department. This fact can be verified from drawing which they have traced, if required. The petitioners have not paid their wages for the month of August to November 1998 and also for 21 days of 1999. The department also withheld the payment for the month of July to September 1998 and the petitioners were forced to file an application dated 1.10.1998 for the release of wages. The respondents have failed to pay wages to the petitioners for the month of October to December 1998 and also January 1999. The petitioners have prayed for the relief.

3. The petition has been strongly contested by respondent by filling detailed reply. The respondents have denied that the contents of the claim and alleged that Shri Vinod Kumar was engaged in December 1997 to September 1998 and he had not worked in August 1998 as per mandays chart. The petitioner worked only for 225 days during his stay in the department. They have admitted that the petitioners are Draughtsman but alleged that they were engaged as Work Inspector, Mortor Mate, and also as beldar during the period they worked. Petitioner Padam Dev has only worked for 158 days as per detail given in para 2 of the reply. The respondents have also admitted that the petitioners have filed an application before Administrative Tribunal but alleged that the petitioner never worked in the month of August 1998 and October/ November 1998. Hence, the question of releasing wages does not arise. The respondents have admitted that the RIDF Division was created for short period and services of the petitioners were dis-engaged as there was no work available. There was no necessity to serve the notice to the applicants as they have not completed 240 days work as required under law. The petitioners were not entitled for the payment of any retrenchment compensation. The respondents also alleged that as the petitioners has not completed 240 days hence, the provisions of Industrial Disputes Act, 1947 are not applicable in their case. The petitioners were engaged in different capacity such as Draughtsman, Mortor Mate, Work Inspector, Chowkidar, and Beldar and they have paid the wages as admissible for the designation held by the applicants. The petitioners never worked for the month of August, October, November and December 1998. Hence, they are not entitled for any payment of wages. They have denied the remaining contents of the claim and prayed for the dismissal of the reference.

4. On the basis of the pleadings of the parties, the following issues were framed by this Court on 22.9.2005.

1. “ Whether the termination of services of the petitioners by respondents w.e.f. 22.1.1999 without complying with the provisions of I.D Act, 1947 is proper and justified? *OPP..*
2. if issue No-1 is not proved, to what relief of services benefits the workman is entitled to? *OPR..*
3. Relief.

5. In order to prove the case both the parties have lead their evidence. I have heard the learned counsel for the parties and also gone through the record. My findings on the aforesaid issues are as under.

Relief. Reference is partly allowed

REASONS FOR FINDINGS

6. Both the petitioners have filed the affidavit in support of their evidence which are placed on the Court file as Ex. PA and Ex. PW-2/A. Petitioner Vinod Kumar has appeared as PW-1 and he has stated that affidavit and demand notice are Ex. PA and Ex. PB. He has also moved an application for release of wages which is mark X and mark Y. He had worked in August 1998 and prepared Drawings which is mark Z and his signatures are at point A. He has filed an application for release the payment for the month of August, October to December, 1998 which is mark Z/1. Cross-section of Addu Bridge was also prepared in October 1998 which is mark Z-3. He filed the case before Administrative Tribunal for non payment which was withdrawn and the present reference has been filed before this Court. During the pendency of the case they were removed from the services from 21.1.1999. He was working as Draughts man during this period. He had received the payment of June, July, Sep. and October 1998. No notice or compensation has been paid to him. Shri Padam Dev was working with him as Draughtsman. In cross-examination he has admitted that he was working in different capacity as per muster-roll when the work was available against these posts. He has admitted that he had given three times the muster roll of Tracer Draughtsman, one muster-roll of Motor Inspector, two muster-roll of Work Inspector, one muster roll of Chowkidar and two muster roll of beldar but stated that he was working as Tracer Draughtsman. He has denied that he was working in the designation for which muster-roll were issued. He has denied that during August 1998 there was no work and no muster-roll was issued. He has denied that after September 1998 he has not reported for duties. He has denied that he had not worked during August, November and December 1998 and January 1999 and because of this reason no wages were paid to him. The witness has denied that the Drawings are signed by XEN/SDO and not by Draughtsman. He has denied that he appended his signature on mark X later on only to create evidence. The witness has stated that he was apprehending his removal from the service, hence he was keeping the copy of the drawing with him. He has denied that he has not completed 240 days service with the department.

7. Pw-2 Shri Padam Dev appeared into the witness box and stated that he was engaged as Tracer Draughts Man on 2.3.1998 and worked till 21.1.1999. They have filed one case before Administrative Tribunal which was withdrawn as per Ex. PC. They were removed during the pendency of the case and their wages were paid after 2-3 months when they have written the letter to the department. Wages for the month of January 1998 were paid in September 1998 and wages of July were paid in October 1998. Wages for the month of August 1998 were not paid. He has prepared drawings mark A, A-1 to A-7 which bears his signatures. These Drawings were prepared in different months. No notice or compensation has been paid to him. Petitioner Vinod Kumar also worked with him. They have completed 240 days with the department. In cross-examination he has stated that he was appointed as Work Inspector. No muster-roll of Tracer Draughtsman was issued by the department. He has admitted that the drawings after preparation is signed by the SDO/XEN. He has denied that signatures on mark A- 1 to mark A-7 were appended later on. He has admitted that when the drawings are prepared and the file is complete thereafter tenders are invited. He has also admitted that nobody keep the copies of the drawings with him. The witness has denied that in August 1998, no muster roll was issued by the department. He has denied that he had not reported for duties after September 1998. He has denied that he has not completed 240 days in a calendar year as Tracer Draughtsman and the false record is prepared later on.

8. PW-3 O.P Bhardwaj, Junior Engineer who has brought the summoned record. The witness has brought the muster roll of Shri Vinod Kumar from 1/98 to 9/98 onwards. He do not know whether Vinod Kumar worked from 12.12.1997 to 31.12.1997. He has admitted that no presence was marked on the muster roll from 1.3.1998 to 10.3.1998. There is no presence of Vinod Kumar from 1.5.1998 to 3.5.1998 and 1.9.1998 to 6.9.1998. In general they have marked the presence of a person when he joined his duties in a particular month. The witness has denied that presence and absent is required to be marked from the first date of the month. The muster roll was issued and if the work is available then the presence of the workers is marked according to his presence. He has brought the muster roll register from February 1998 to 31st May 1999. 37 muster rolls were issued in August 1998 in Bahali Sub-Division. The muster roll were issued for the drawing branch for the month of August 1998 and name of the work is mentioned on the muster roll. Name of the workers are also given on the muster roll register. Letter mark X dated 19.8.1998 is not available on the record file which he has brought to the Court. The payment as per letter has already made to the applicant. The wages of Padam Dev for the month of June and July have been paid in November 1998. He has brought the drawing which are available in the record but Drawing mark Z is not traceable. Drawing mark Z-3 Now Ex. PW-3/A is available. Index mark A-2 now Ex. PW -3/B is on the record but these documents do not bear the signatures of the petitioner on the original. Plan mark A/4 to A/7 are not traceable. The petitioners worked as per their status shown in the muster roll. In cross-examination the witness has admitted that the petitioners were engaged on the muster roll for the work which was available with the department. Both the petitioners have worked as daily work inspector and Mortor Mate, as per muster roll. None of the petitioners have completed 240 days in a calendar year. No muster roll was issued for the month when no funds were available.

9. PW-4 A.N Sharma, Executive Engineer who has stated that on mark X bears his signature which he marked to SDO Bahli Division. In cross-examination, he has admitted that when the funds were not available, the payments of the workers are kept pending. During 1998 there were regular Draughtsman posted in Teklech Division. All drawings are signed by the XEN when its blue prints are taken.

10. PW-5 Sanjay Gupta, SDO who was posted in Bhali Sub-Division in 1998. The witness has stated that letter mark Z was received by him. When any letter is received in the office, it is marked for diary and thereafter the action was taken. In cross-examination he do not remember whether the petitioners were working as Inspector or beldar at that time. The payment of the workers are made when the funds were available.

11. The respondents have also examined 4 RWs. Rw-1 Shri Chander parkesh, J.E Kumarsain, who was posted in Teklech Division during this period. With the creation of new Teclech Division many persons were engaged including petitioners. Petitioner Vinod Kumar was working under him as Work Inspector during July 1998 and thereafter he worked as beldar. His services were not terminated by him as he worked only for 2 months under him. In cross-examination he has stated that the petitioner was engaged as Draughtsman in Taklech and he do not know the period for which the petitioner was engaged. He do not know whether the petitioner had worked from 31.12. 1997 to 21.12.1999 in Takelach Division. The petitioner never worked as Draughtsman under him but he worked as work inspector. The witness has denied that the petitioner had worked for 3 months under him. The payment is made by SDO to all the workers. He do not know that the payment of the petitioner was released after the letter of the Executive Engineer. He do not know whether the petitioner worked somewhere else in 1998. He do not know that the petitioner had worked continuously till 21.1.1999 and no notice or compensation has been paid to him. He has admitted that when the muster roll was issued, the presence of the workers are marked and when they are absent they are marked absent. Muster roll can not left blank. No muster

rolls were issued to the Drawing Branch. The muster rolls are issued to the Sub-Division and these are marked to the J.E concerned. He has denied that the petitioner remained sitting in the office for 2 months.

12. RW-2 is Shri Parvesh Kumar, SDO Rampur who was posted at Taklech in 1996-1997. The witness has stated that due to new creation of the Division they have engaged new staff including petitioner. The petitioner worked as Draughtsman under him but he do not know about Padam Dev. Petitioner Padam Dev had gone to another Sub-Division at Bhali. In cross-examination the witness has stated that Vinod Kumar was deputed at Bhali on the request of the department. He do not know that all the workers who were working with the petitioner are still working.

13. RW-3 is Shri Chhavinder Kumar, J.E, who has stated that the petitioner had worked under him as Chowkidar as per muster roll. Drawings are prepared by J.E and signed by SDO/XEN. The petitioner also worked in June 1998 for 30 days as beldar and the payment has already been made to him. In cross-examination he has denied that the petitioner worked as Tracer Draughtsman, but stated that he worked as Chowkidar/ Beldar. He has denied that the petitioner has prepared drawings in 1998 but he can only state about his section where no drawings were prepared by the petitioner. He had denied that the petitioner had worked in 1998 by sitting in the office but stated that the petitioner had worked as Beldar / Chowkidar.

14. RW-4 is Shri Ramesh Rana, J.E, who has stated that the petitioner Vinod Kumar had worked under me in 1998 as Work Inspector. In cross-examination the witness has stated that the petitioner had worked only for 28 days in May. The presence and absent of the workers are marked on the muster roll.

15. From the perusal of the evidence, it has been proved that both the petitioners were engaged by the respondent during 1997. Both the petitioners have tried to prove that they have worked for more than 240 days in each calendar year but the respondents have not marked their presence on the muster roll. It has been alleged that both the petitioners were shifted to Taklech Division which was newly created and thereafter it was merged with Rampur Division. Both the petitioners have alleged that they were working as Tracer Draughtsman and they also placed on record the photocopies of the drawings prepared by them which are marked Z-2, mark Z-3 (Pw-3/A), mark A-1 to mark A-7. Both the petitioners have pleaded that all these drawings were prepared by them during their stay in the department but all these drawings except Ex. PW-3/A and Ex. Pw-3/B has been denied by the respondent. The petitioners can not take the benefits of these drawings as according to the record of the respondent they were engaged as Beldar/ Chowkidar/ Work Inspector. Petitioner No-1 Shri Vinod Kumar, has been shown as Tracer Draughtsman from December 1997 to Feb. 1998 and thereafter he was engaged as Mortar Mate, Chowkidar, Work Inspector etc. Petitioner No-2 Shri Padam Dev, was engaged as Work Inspector/ Beldar. Petitioner No-1 Shri Vinod Kumar has alleged that he was engaged on 22.12.1997 and he worked till 21.1.1999 but as per record, the Petitioner No-2 Shri Padam Dev has worked with the respondent only for 158 days from March 1998 till September 1998. The petitioner No-1 Shri Vinod Kumar has served with the respondent department as per record from December 1997 to Sep. 1998 i.e. only for 225 days. The respondents have failed to produce the muster roll for the month of August 1998 despite record has been summoned. The department has failed to produce the muster roll register for the month of August 1998 and for not producing the record an adverse inference is required to be withdrawn against the respondent. The plea of the learned DDA for the respondents is that the petitioners were not engaged in August 1998 can not be believed particularly when the relevant record has not been produced by them in the Court. It has been proved on record that both the petitioners had worked at different places. RW-2 Shri Parvesh Kumar, SDO has admitted that petitioner No-1 Shri Vinod Kumar has worked under him as Draughtsman only for one month but

this witness has failed to state during which month the petitioner had worked under him. RW-4 Shri Ramesh Rana, JE, has stated that the petitioner Vinod Kumar has worked in May for full month and the muster roll was also issued for 31 days whereas from the perusal of the record only 28 days presence of the petitioner has been marked. It seems that the respondents have tried to conceal certain record from the Court only to show that the petitioners have not completed 240 days in any calendar year but the respondents by not producing the record of August 1998 has created doubt in the entire case and it can be safely concluded that petitioner No-1 has worked for more than 240 days during his stay in the department and his removal from service is illegal and liable to be set-aside. As regard the case of petitioner N0-2 he had worked as per mandays chart given by the respondent under para 2 of reply. The petitioner No-2 has only worked for 158 days till September 1998 and if the benefits of August 1998 for 30 days is given to him even then he is unable to full fill the required 240 days. Hence, he is not entitled for any relief. As regard the drawings mark Z-2, mark Z-3 and mark A-1 to mark A-7 are concerned, no benefits of these Drawings can be given to the petitioner as they were receiving the wages under different category/ designation. Moreover, if the drawings placed on the Court file are taken in to consideration even then no benefits to the petitioners can be given as they have worked as beldar/ Chowkidar/ Work Inspector and received the wages without any protest.

16. In view of the above discussion the removal of Shri Vinod Kumar petitioner No-1 by the respondent is held to be illegal and the petitioner No-1 is held entitled to be reengaged as Work Inspector forthwith. As regard petitioner No-2 Shri Padam Dev he has failed to prove the required days. Hence, he is not entitled for any relief. Accordingly, issue NO-1 is decided in favour of petitioner No-1 who is entitled for his reengagement without seniority and back wages. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today, Of this 6th day of September 2007.

(L.N SHARMA)

In the Court of L. N. Sharma, Presiding judge, H.P. Industrial Tribunal-cum-Labour Court, Shimla.

Ref No- 144 of 2006

Instituted On- 18.11.2006

Decided On- 19.9.2007

Shri Sanjeev Sharma, S/o Shri Chander Dutt. R/o Village Chabacha, P.O. Rouri, Tehsil Kasauli, Distt. Solan, H.P. through J. C Bhardwaj, President, H.P. AITUC, HQ, Saproon, Solan (H.P).

..Petitioner.

Versus

M/s Nitiraj Pvt. Ltd. Plot o-41, Sector -2 Parwanoo, Distt. Solan H.P. through its General Manager.

..Respondent.

For petitioner:- Shri J.C Bhardwaj, AR

For respondent:- already Ex-parte.

AWARD

1. The following reference has been received for adjudication by this Court from the appropriate government:

“Whether the termination of services of Shri Sanjeev Sharma, S/o Shri Chander Dutt Sharma, workman by the General Manager, M/s Nitiraj Pvt. Ltd. Plot No-41, Sector - 2 Parwanoo, Distt. Solan H.P. w.e.f. 07.03.2005 without complying the provisions of Industrial disputes Act, 1947 as alleged by the workman is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?”

2. The claim has been filed by the petitioner where in the petitioner has alleged that he was engaged as helper in March 2003 and he was confirmed on the said post w.e.f 1.7.2004. The petitioner continued in the service till 7.3.2005. The petitioner has been illegally terminated by the respondent without any reason. He was drawing Rs. 2150/- at the time of his removal. The petitioner has completed 240 days in each calendar year till his illegal termination. The respondent has removed the petitioner without complying the provisions of Section 25-F to H of the Industrial Disputes Act, 1947. No retrenchment compensation or notice has been given to the petitioner. The illegal termination of the petitioner is liable to be set-aside and he is entitled for his re-instatement.

3. Notice of reference has been issued to the respondent company, but they have failed to appear before this Court despite valid service as per acknowledgement received back and placed on the Court file. Hence the respondent company has been proceeded ex-parte.

5. The following point arises for determination.

“Whether the removal of the petitioner by the respondent w.e.f. 7.3.2005 is illegal and liable to be set-aside.”

For the reasons to be recorded hereinafter,

My findings on the aforesaid point is as under:-

Point No-1	Yes.
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Petition allowed.

REASONS FOR FINDINGS

6. Ex-parte evidence recorded. The petitioner has stepped into the witness box to support the entire contents of the claim wherein the petitioner has stated that he was engaged on September 2002 and was removed in March 2005 without any notice or compensation.

7. As the respondent has failed to appear before this Court despite valid service which clearly shows that they have nothing to say in the matter. The petitioner has proved that he has been illegally terminated without complying the provisions of Section 25-F, G & H of Industrial Disputes Act, 1947 and the removal of the petitioner is held illegal. The petitioner also proved that he served for more than 240 days in each calendar year.

In view of the above discussion, the removal of the petitioner is held illegal and the petitioner is ordered to be reinstated with seniority and back-wages @ 50 % from the date of his removal till his reinstatement. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today On this 19th day of September 2007

(L.N SHARMA)

Ref.28/2003

G.M./M.D. B.C.C.Fuba (India) Ltd. V/s Sh. Achhar Singh.

20.9.2007

Present:- None for the petitioner.

Shri .O.P.Sharma , Advocate for the respondent.

Case called thrice. But none has appeared on behalf of the petitioner hence, the reference is dismissed. Let a copy of this order to be sent to the appropriate government for the publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge.

Ref. 6 of 2005

Sh. Surender Thakur V/s Management of M/S Green Valley Frozen Food Ltd. Kala-Amb.

24.09.2007.

Present : None.

The case is fixed for petitioner's evidence today. From the perusal of the court file, it appears that the case was fixed for PW's on 13.11.2006, 07.03.2007, 18.06.2007 and on 24.09.2007, but despite numerous opportunities the petitioner has failed to produce any evidence that his services were illegally terminated by the respondent without complying the provision of I.D. Act, 1947.

As the petitioner has failed to prove issue No. 1 the present reference is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette.

Announced.

Sd/-
Presiding Judge,
Labour Court, Shimla.

President HRTC(DriverConductor) Operation Staff Unin Shimla

V/s

TheM.D.HRTC,Shimla.

29.9.2007.

Present: Shri M.L Sharma, Advocate for the applicant.

Shri Rajesh Verma, Advocate for the respondent.

The counsel for the applicant has stated that he does not want to press the present reference and in view of the instructions he want to agitate the matter in Administrative Tribunal. Accordingly the present reference is dismissed as withdrawn. The applicant will be at liberty to seek redressal from the competent Court and period taken before this Court shall be exempted for the purpose of limitation. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

Ref.10/2003

Sh. Krishan Singh V/s The Ex.Engg, HPPWD Division-1 Winter field Shimla

20.9.2007

Present:- None for the petitioner.

Shri A.K.Dhiman, Ld. DDA for the respondent.

Case called thrice. But none has appeared on behalf of the petitioner hence, the reference is dismissed. Let a copy of this order to be sent to the appropriate government for the publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge.

Ref.66/2006

Sh. Desh Raj V/s The Ex.Engg, HPPWD IGM, Shimla

21.09.2007

Present: Sh. B.S.Thakur, Advocate for the petitioner.

Sh./ T.C.Kainthla, DDA for the respondent.

Conciliation tried. Shri R.S.Rana SDO HPPWD IGMCI, Shimla who is present as stated that the department will engaged the applicant only as per seniority list filed as A-2 as and when the budget and muster –roll received from the government. The statement has been accepted by the petitioner and he do not want to press the present reference. Accordingly, the reference is dismissed as compromised. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

Ref.357/2002

Sh.Ganesh Tiwari V/s M/s Deepak Spinners Ltd.Baddi

7.9.2007

Present: None for the petitioner.
Shri Jagdish Thakur, Advocate for the respondent.

Case called thrice. But none has appeared on behalf of the petitioner accordingly the present reference is dismissed. Let a copy of this order to be sent to the appropriate government for the publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge.
Labour Court, Shimla.*

Ref.150/2006

Kumari Thawli Devi

V/s

Chief Medical Officer, Shimla

24.09.2007

Present:- None for the petitioner.

Sh. T.C.Kainthla, DDA to the respondent.

Case called repeatedly. But none has appeared on behalf of the petitioner. Hence, the case is dismissed. Accordingly, the reference is answered in negative. Let a copy of this order to be sent to the publication in the official gazette.

Announced.

Sd/-
*Presiding judge
Labour Court, Shimla.*

Ref. 54/2007

Shri Hari Nand

V/S

Divisional Manager, H.R.T.C.

4.10.07

Present: Shri Hardeep Verma, Advocate with applicant in person.

Shri .Rajesh Verma, Advocate for the respondent.

The applicant has stated that he does not want to press the present reference as the same is not maintainable before this court. Statement recorded .In view of the statement of the applicant the present reference is dismissed .However the applicant is at liberty to approach the appropriate authority for redressal .The time taken before this court shall be exempted for the purpose of limitation. Let the copy be sent to the appropriate authority for publication .File after completion be consigned to record room.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

**In the Court of L.N Sharma, Presiding Judge, H.P Industrial Tribunal-cum- Labour
Court, Shimla**

Ref No. 104 of 2006

Instituted On : 3.8.2006

Decided On. 4.10.2007

Dinesh Chauhan, S/o Shri Shiv Ram, Village Chiknahat, P.O Shardaghat, Tehsil
Kandaghat, Distt. Solan, H.P. through J.C Bhardwaj President HP AITUC, HQ
Saproon, Solan HP. *..Petitioner.*

Versus

M/s Devina Dabra Prop. Hotel D-Chalet, Blossom Hills Vill. Kano, P.O. Nagali via
Chail Tehsil Kandaghat, District, Solan, HP. *..Respondents*

Reference under section 10 of the Industrial disputes Act, 1947

For Petitioner: Shri J.C Bhardwaj, AR.

For respondents: Already ex-parte.

AWARD.

1. The present reference has been received from appropriate government for adjudication by this Court:

“Whether the termination of services of Shri Dinesh Chauhan, S/o Shri Shiv Ram workman by the management M/s Devina Dabra Prop. Hotel DChalet, Blossom Hills Vill. Kano, P.O. Nagali via Chail Tehsil Kandaghat, District, Solan, HP. w.e.f. 10.8.2003 without complying with the provisions of the Industrial Disputes Act, 1947 as alleged by the workman is proper and justified? If not, what relief of service benefits and amount of compensation the aggrieved workman is entitled to?

2. The notice of the reference has been issued to the respondent through RAD but the AD has not been received back and it is presumed that the respondent has been served but none has appeared hence, the respondent has been proceeded ex-parte and the case has been listed for ex-parte evidence.

3. The claim has been filed by the claimant wherein he has alleged that he was engaged as receptionist-cum- clerk in July 1998 where he worked till 14.2.2000 at Manali. The petitioner has been transferred to Chail where he joined on 15.2.2000. The services of the petitioner were illegally terminated on 10.4.2003 without any notice. The dispute started when the petitioner 26 has demanded the wages for 21 months amounting to Rs. 1, 07,100/-. The respondent has issued cheques for Rs. 55,000/- and when the cheques were presented for payment, the same were bounced with the remarks that no balance exists in the account of respondent hotel. The payment is still not released by respondent. When the petitioner asked for payment instead of making the payment, the respondent has removed the petitioner from service without following any provision of law. The last drawn salary of the petitioner was Rs. 5200/- P.M. The petitioner was illegally removed from service. The petitioner has completed 240 days in each year during his service and he is entitled for the payment under the industrial Act, 1947. The respondent is bound to serve one month notice of retrenchment or pay one month salary in lieu of notice which is missing and the removal orders are illegal and liable to be set-aside. The petitioner prayed for the release of Rs. 52,100/- as arrear of wages and his reinstatement with all benefits.

4. On the basis of the pleadings, the following point arises for determination. “Whether the petitioner is entitled for the relief claim. *OPP..*

Relief.

5. As the respondent has failed to appear before this Court and the respondent has been proceeded ex-parte. The petitioner stepped into the witness box to support the entire contents of the claim. He has proved that he was engaged as receptionist cum-clerk in July 1998 at Manali and thereafter he was transferred to Chail where he joined on 15.2.2000. The services of the petitioner was terminated on 10.8.2003 as the petitioner demanded the payment of wages of 21 months amounting to Rs. 1,07,100/-. The respondent has paid Rs. 55,000/- through various cheques and Rs. 52,100/- is still to be recovered. The petitioner further stated that he has completed 240 days in each calendar year. His removal without notice or compensation is illegal and he prayed for the recovery of Rs. 52,100/- and also reinstatement with full back wages.

6. In view of the above, as the respondent has failed to contest the claim of the petitioner. It has been proved that the petitioner was engaged as receptionist cum-clerk in July 1998 and his

services were illegally terminated on 10.8.2003. The services of the petitioner were terminated when he demanded for his wages of Rs. 1,07,100/-. The respondent has only paid Rs. 55,000/- through various cheques and Rs. 52,100/- is still to be recovered. The petitioner has failed to produce any documentary evidence regarding arrears of Rs 1,07,100/- or payment of Rs. 55,000/- which he received through various cheques hence, arrears of wages can not be awarded in his favour without any evidence. Further as the petitioner has completed more than 240 days in each calendar year since his engagement in July 1998 to 10.8.2003 the petitioner is entitled for his reinstatement and back wages @ of 50% from 10.8.2003 till his reinstatement. Accordingly point No-1 is replied in favour of the petitioner and against the respondent.

7. In view of the above discussion, the present reference is allowed and the petitioner is held entitled for his reinstatement w.e.f. 10.8.2003 with back wages @ of 50% till his reinstatement. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today of this 4th October 2007

(L.N SHARMA)

Ref.162/1998

Amar singh

V/s

The G.M. The Tribune, Daily News paper, Chandigarh & Anr.

22.10.2007.

Present: Shri J.C Bhardwaj AR for the petitioner with petitioner.

Shri Surinder Sharma, Advocate with Shri Ashok Kumar Arora, Deputy Manager (HR& Legal) The Tribune Chandigarh.

Shri Ashok Kumar Deputy Manager has stated that the respondents are prepared to implement the award passed in reference No- 162 of 1998 dated 18.4.2006, as per his statement recorded separately and placed on the Court file.

In view of the settlement the present reference is allowed and the petitioner is ordered to be reinstated in service w.e.f. 6.10.1994 with back wages @ of 25%. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

*Sd/-
Presiding Judge,
Labour Court, Shimla.*

**In the Court of L.N Sharma, Presiding Judge, H.P Industrial Tribunal-cum- labour
Court, Shimla**

Ref No. 295/2002
Instituted On.19.9.2002

Decided On.18.9.2007

Smt. Rajni Gupta, Wdo/ Shri Ashok Kumar Gupta, C/o M/s Babu Ram, Rajesh Kumar,
Naya Bazar Nahan, Dist. Sirmaur, H.P.

..Petitioner.

Versus

M/s Himachal Road Transport Corporation through its General Manager, Shimla, H.P.

..Respondent.

Reference under Section 10 of the

Industrial Disputes Act, 1947

For Petitioner:- Shri Vivek Mehta, Advocate.

For Respondent:- Shri M.K Jain, Advocate.

AWARD

1. The following reference has been received for adjudication by this Court from the appropriate government:

“Whether the termination of the services of late Shri Ashok Kumar by Divisional Manager HRTC, Shimla-12 on the findings of the enquiry report w.e.f. 30.6.1997 is proper and justified? If not, what relief Smt. Rajani Gupta W/o late Shri Vinod Kumar Gupta is entitled to?

2. The petitioner has filed the claim wherein she has alleged that her husband was engaged as Cleaner-cum- Conductor by the respondent w.e.f. 01.01.1972. The deceased was confirmed in the job w.e.f. 01.07.1975 vide office order dated 28.08.1980. The deceased Shri Ashok Kumar was working as Clerk since 01.01.1972 as is evident from the record. The deceased was getting consolidated wages of Rs. 2100/- to 2200/- P.M till his illegal removal from service i.e. 30.6.1997. No regular pay scale, revised pay scale has been given to the deceased. Even no annual increment or bonus was paid to him during his service. The deceased was denied the benefits of stepping up increment after completing 8/16/24 years of service. There was no allegations against the deceased till 23.5.1991 when for the first time he was served with illegal charge sheet. S/Shri Chanan Singh, Ranbir Singh, Jati Ram who were appointed along with the deceased (Ashok Kumar) and are promoted as Senior Assistant in the year 1997. But no service benefits are given to the deceased Shri Ashok Kumar. After the service of two charge sheets dated 23.5.1991 and 27.9.1991 the deceased remained on duty but his wages were not paid till 1.8.1997 when his services were terminated illegally. The deceased Shri Ashok Kumar has made representation to the Labour Officer on 19.12.1998 for the release of his service benefits, bonus etc. The respondent after issuing two charge sheets has not initiated the enquiry and not paid the salary to the deceased

and he was mentally harassed with a view that he may agree with the findings of the enquiry officer. The enquiry officer has obtained the admission dated 7.4.1993 from the deceased wherein the deceased has not admitted and denied the charges specifically. The enquiry officer without conducting any enquiry or giving any opportunity to the deceased, held him guilty and submitted his findings. The enquiry report is a arbitrary melafide and is void. No action on such findings can be taken. The enquiry report was not supplied to the deceased hence, the termination order dated 30.6.1997 is liable to be set-aside. The Authority has not served show cause notice and impose penalty of termination dated 30.6.1997 in a hot haste, mentioning that show cause notice dated 5.7.1993 was served and in next para of the order, it has been mentioned that the deceased has failed to give the reply of show cause notice for 4 years which is all false and no action on such enquiry report can be taken. Suddenly the department came to know that no such notice has been issued and a fresh notice has been issued only to cover up illegality and the termination order is liable to be set-aside with all benefits i.e. seniority, promotion, pay fixation and pay in the revised scale. The termination orders dated 30.6.1997 becomes illegal as these orders were served upon the deceased on 1.9.1997 whereas he was shown terminated w.e.f. 30.6.1997. The claimant has prayed that the termination order dated 30.6.1997 be set-aside and she be given all benefits of the deceased.

3. The claim has been strongly contested by the respondent taking preliminary objection that the petition is not maintainable. The claim has been delayed and is liable to be dismissed. The petitioner has stopped from filing the present claim. On merit, the respondent has denied the contents of para 2 but admitted that the deceased was appointed as Cleaner on 1.1.1972 and he was upgraded as Conductor on 1.8.1978. The deceased was appointed as clerk on 1.1.19979 and was given the increment up to 6.8.1984. The deceased was placed under suspension on 31.1.1985 but reinstated on 31.5.1995. The deceased (Ashok Kumar) joined his duty in D.T Cell Tara Devi on 9.10.1985 after leave from 26.3.1985 to 8.10.1985. Again he was transferred to Dhali Unit on 20.9.1987 as the deceased remained under suspension from duty, his leave period from 6.8.1984 could not be regularized and no increment has been given to him in the revised pay scale hence, the question of selection grade does not arise. The respondent has given the detail of the penalty imposed on the deceased from time to time. The respondent also denied the contents of the remaining claim alleging that the deceased (Ashok Kumar) was not attending his duties regularly after August 1988 and he remained frequently absent from his duties. The respondent did not think proper to place him under suspension and to make unnecessary payment of subsistence allowance. They have denied the remaining payment. The deceased had not participated in the enquiry but confessed the charges. Due opportunities have been given to the deceased and directed him to attend his duties regularly but the deceased failed to amend his behavior. The applicant is not entitled for any benefits of deceased (Ashok Kumar). The respondents have prayed for the dismissal of the reference.

4. The petitioner has filed the re-joinder wherein she has controverted the stand taken by the respondent and re-affirmed the contents of the petition and prayed for the relief.

5. On the basis of the pleadings of the parties, the following issues were framed by this Court on 8.11.2005.

1. Whether the deceased Shri Ashok Kumar has been illegally terminated by the respondent without proper enquiry? If so its effect?

OPP...

1. If issue No-1 is proved in affirmative to what relief the petitioner is entitled to?

OPP...

2. Whether the petition in the present form is not maintainable?

OPR...

3. Relief .

6. In order to prove the case, both the parties lead their evidence. I have heard the learned counsel for the parties and also gone through the record. My findings on the aforesaid issues are as under:-

Issue No-1 Yes.

Issue No-2 Petitioner is entitled for all service benefits of the deceased.

Issue No-3 No.

Relief. Reference allowed as per operative part of award.

REASONS FOR FINDINGS

7. Issue No-1&2 are taken up together as they are interlinked and interconnected for the purpose of discussion and decision. The petitioner has been examined as PW- 1 and she tendered affidavit in her evidence Ex. PA. The petitioner has been cross-examined about the charge sheet, enquiries and also about the promotion of deceased from time to time. She has admitted that the deceased was transferred to Dhalli but denied that the Telegram of extension of his leave or he had not joined till 17.9.1990. The petitioner has stated that she herself stayed with the deceased for 1 ½ month. She has stated that as the deceased was ill for some time and he was not in a position to recognize his family members. Hence the question of acceptance of charge sheet can not be believed. She has denied that the deceased never intimated the department about his illness but clarified that she herself intimated the department telephonically. She do not know whether the deceased was facing 19 charges. She has denied that the department has sent the notice about the charges and the action taken report to the deceased. She has admitted that the termination notice has been received by the deceased after 2 months from its issuance.

8. The respondent also examined one Shri Harbans Kumar (Regional Manager HRTC, Nahan) who has also tendered affidavit in his evidence Ex. RA along with documents mark R-1 to R-17. In cross-examination the witness has stated that he was engaged as Chief Inspector in 1987. He had not handled the case of the deceased at any stage but denied that the department has not given any increment during his entire service and no penalty has been imposed on the deceased. The witness has denied that no letter as mentioned under para 2 of the reply has been given to the deceased but he had seen all details from the office record. He has admitted that under para 2 of reply two deferent penalties were imposed in one day i.e. 30.12.1989 and 22.10.1982. He has admitted two penalties of stopping the annual increments were imposed on 31.8.1989. The deceased was permitted to draw the suspension allowances from 1.1.1990 to 2.2.1990 but he has not having the copy of suspension orders with him as mentioned in the affidavit. He has admitted that the deceased was charge sheeted on 27.9.1991 and he was compulsory retired on 20.9.1994 but there is no reference about the payment of suspension allowances. He has admitted that after the review of compulsory retirement, the deceased was re-instated w.e.f. 17.9.1991 till he was removed from service vide order dated 27.9.1997. The witness has denied that no salary has been paid to the deceased from 23.5.1991 till his removal. It is however mentioned that the payment for duty hours as been paid. The witness has stated that from 27.9.1991 to 30.6.1997 the deceased remained absent

hence, no payment has been released to him. The letter of termination has been served on the deceased on 1.8.1997 signature on mark R-17 are different it seems that the signatures were forged by some officer. The witness has denied that no show cause notice dated 5.7.1993 has been given to the deceased. The witness has admitted that as per mark R-3 the removal was with immediate effect i.e. 30.6.1998. As per record the letter has been shown to have been sent on 2.7.1997. The deceased has been removed from service w.e.f. 2.7.1997. He has denied that the receipt mark R-17 is forged in the office and no removal order has been sent to the deceased. The termination orders will become operative from the date of service. He has admitted that on the appeal, the Managing Director has set-aside the termination order dated 29.5.1995 and charges against the deceased were set-aside. The witness also admitted that the charge sheet dated 22.11.1996, 22.2.1996, 15.1.1993 and 6.5.1989 remained pending and no decision on these charge have been taken by the department up till today. All these chargesheets sheets become infructuous with the retirement of the official. The charge sheet remained unattended as the deceased has not attending the enquiry proceedings. He has admitted that as per mark R-7 which is the alleged admission of the charges by the deceased he was removed from service without any enquiry. The department has not tried to ascertain whether the application mark R-7 was given voluntarily by the deceased, or not. He has admitted that no enquiry has been conducted on the charge-sheet framed against the deceased and the order of termination has been passed without ascertaining factual position. He has admitted that even if the charges are accepted by the official, even than as per rule 11 & 14 the charges are required to be decided by the enquiry officer and he should give specific findings on the charges. The witness has also admitted that if the provisions of CCA & CA rules 11 & 14 are not followed, than the order of removal become illegal. He has admitted that S/Shri Chandan Singh, Jati Ram, Ranvir Singh who were appointed with the deceased have been promoted and some of them have been retired.

9. It is the admitted case of the parties that the deceased (Ashok Kumar) was appointed as Conductor on 1.1.1972 and thereafter, he served at various places and promoted as Clerk by the department. The official was charge sheeted and many penalties were imposed upon him as per detail given under para 2 (I to XVIII). Under para 2 sub para 14 it has been mentioned that the deceased was charge sheeted under rule 14 vide charge sheet dated 27.9.1991 for willful absence and the deceased was retired w.e.f. 20.9.1994. The deceased was again reinstated and his compulsory retirement order has been set-aside with stopping 3 increments. From the perusal of the record, it appears that from the date of appointment the department started harassing the deceased by imposing penalties, stopping his increments. The official has given as many as six charge sheets dated 6.5.1989, 23.5.1991, 15.1993, 22.11.1996 and 22.2.1997 out of which 4 charge sheets 15.1993, 22.11.1996 and 22.2.1997 were given for availing unauthorized leave/false medical claim but all these charge sheets remained pending for numbers of year without any action which clearly proves that the respondents were bent upon only to delay the matter and harass the deceased. Out of all these charge sheets only charge sheet dated 27.9.1991 for willful absence has been decided vide office order dated 16.5.1994 and the official has been compulsory retired from service stating that as the official has admitted the charges in writing and refused to participate in the enquiry, he has been removed from service. No show cause notice about imposing penalties has been served upon the official however office order No-3795 dated 5.7.1993 has been sent to be served to the official through Deputy Divisional Manager HRTC Nahan but there is nothing on record to prove whether this notice has been served or not. Similarly the department has decided the charge sheet dated 23.5.1991 only on the basis of an application given by the official (Ashok Kumar) wherein he admitted his charges leveled against him vide memorandum No- 1634 dated 23.5.1991. The regional Manager who was appointed as enquiry officer has simply given his findings on the bases of confessional statement of the delinquent official without giving due opportunities to the official (Ashok Kumar) to face the charge sheet/ enquiry. The action of the department on the basis of the recommendation of the enquiry officer proposing to impose major penalties on the official vide letter dated 5.7.1993. This letter again sent for the service of the

official (Ashok Kumar) through Deputy Divisional Manager HRTC Nahan but there is nothing on record to prove whether this notice has been served or not. The department has failed to prove the service of the show cause notice on the official and without the service of show cause notice the entire action of the respondent become illegal and is liable to be set-aside. Further the respondent has issued two show cause notice on the same day bearing No- 3795 dated 5.7.1993 pertaining to the charge sheet dated 27.9.1991 and No- 3797 dated 5.7.1993 pertaining to the charge sheet dated 23.5.1991. The respondent without going through the relevant provisions of the law or findings whether the show cause notice has been served or not has imposed major penalties of removal from service w.e.f. 2.7.1997 vide office order dated 30.6.1997.

10. From the bare reading of office order annexure R-3 dated 30.6.1997 it has been mentioned that the penalties of removal from service is imposed on the deceased with immediate effect. But there is nothing to show whether the removal order has been served on the official or not. The removal order is alleged to have been served on the deceased (Ashok Kumar) on 1.8.1997 photocopy of the acknowledgement is placed on the Court file as annexure R-17. But the letter seems to have been forged as the department has not bothered to produce the original acknowledgement of the official (Ashok Kumar) it creates serious doubt in the entire action of the respondent. The learned counsel for the respondent is unable to explain how removal can become operative on 30.6.1997 when the removal letter has not been delivered to the official. The applicant Smt. Rajni Gupta, widow of late Shri Ashok Kumar has proved that her husband has been harassed by the department from the date when he joined his duty and even he was not given the pay scale or other service benefits. The department even failed to take into consideration the reinstatement orders whereby the official has been reinstated with the direction that the entire period shall be treated as leave of the kind due to the official (Ashok Kumar). The respondent has failed to show why the other charge sheets as per detail given under para 2 sub-para I to IV has not been decided w.e.f. 6.5.1989 to 22.2.1997. There is no explanation why these four charge sheets remained unattended without any enquiry, this only reflects the melafide attitude of respondent towards the deceased.

11. The learned counsel for the applicant has argued that if any show cause notice has been served after the enquiry, the entire proceeding become illegal and is liable to be quashed. He has also argued that the respondent has failed to prove even the service of single show cause notice of the enquiry report on the basis of which the deceased (Ashok Kumar) was removed from service and in such situation the entire action of the respondent become illegal and is liable to be set-aside. He placed reliance on Latest HLJ 2007 (HP) page 660 titles as Gambhir Chand V/s Sainik School Society and Another. Relevant para 7 & 8 are reproduced:-

Para No 7

In the present case the petitioner has not admitted that fact that he was born in the year 1937. Therefore the fact that the petitioner was born in the year 1937 it self is disputed. In fact this specific case is that there is mistake in recording the correct date of birth and he is open for examination before the medical board. He had submitted the certificate issued by Panchyat wherein date of birth had been corrected. The material taken on record and relied upon by the enquiry officer during the course of the proceedings, in my view, ought to have supplied to the petitioner alongwith the findings of the enquiry officer which presumably is against him. The fact that the enquiry report has not been supplied to the petitioner nor any show cause notice was served before imposition of any penalty is in clear cut violation of rules 10.07, 10.09 and 10.10 as has been mentioned by the petitioner in his petition para -22(a),(h) and

(i). *There is only value denial in reply thereto. In my view, the petitioner was duly entitled to the enquiry report before any penalty could have been imposed upon him. There is nothing on record to show as to whether the principal had agreed with the findings of the Enquiry Officer and there is nothing on record to show that the principal had taken prior approval of the Chairman of the L.B.A before imposition of major penalty.*

Para- 8

The impugned orders are cryptic and unreasoned. The reasons ought to have been assigned and/or supplied while passing the order. During the course of hearing, nothing has been produced to show that the reasons are contained in the files. Before quantifying the demand for recovery, no notice was issued to the petitioner

12. The learned counsel also argued that the rule of natural justice is required to be followed as it is now well known that the department proceedings are quasi judicial proceeding and in such fair play as mandatory required to be followed which is missing in the case in hand and the action taken against the deceased (Ashok Kumar) become illegal and liable to be set-aside. He placed reliance 1989 CIVIL COURT CASES PAGE 148(PATNA) titled as Shashi Kant Prasad V/s Bihar State Food & Supplies Corporation & Another. Relevant para 14 is reproduced:-

Para 14

On the facts and the circumstance of this case, I feel that the contention of the learned counsel appearing for the respondent No-1 Corporation that it does not follow the disciplinary and appeal rules meant for the Government servants is not correct. However, even assuming that the respondent no-1 has neither framed disciplinary rules for its employees nor follows such rules meant for the Government servants, in such an event also it was obligatory on the part of the respondent No-1 to follow the minimal requirements of the natural justice. It now well known that department proceedings are quasi judicial proceedings and in such proceedings, fair play in action is mandatorily required to be followed.

13. The other arguments of the learned counsel for the applicant is that the deceased was not paid the salary on the revised pay scale and even no increment is allowed to him during his entire service carrier. No doubt the respondent had taken the plea under para 2 of the reply mentioning that various charge sheets were pending but they are silent about the release of pay on the revised pay scale to the deceased (Ashok Kumar). Under para 2 the respondent has only mentioned that he has been given the increments only w.e.f. 1.2.1980, 1.8.1983 and 6.8.1984 but the department has failed to show whether the deceased was given any benefits or the pay in the revised pay scale this also reflects melafide attitude of the respondent towards deceased (Ashok Kumar). It has been admitted by RW_1 that S/Shri Chandan Singh, Ranvir Singh, Jati Ram were appointed along with the deceased and they have been given the seniority and pay in the revised pay scale but the department is silent whether these benefits are given to the deceased or not. Hence, the respondent is liable to pay the salary to the deceased in the revised pay scale with all benefits as per law laid down by their lordship of Hon'ble H. P Administrative Tribunal Shimla reported in Latest 2005 (HP) page 623 titled as Pream Chand V/s State of H.P & Ors. Relevant para 7 is reproduced:-

Para -7

The Apex Court after examining the number of decision reported as “Ranvir Singh V. Union of India, Air 1982 SC 879”, “D.S Nakara and others Vs. Union of India, AIR 1983 SC 130”, “P Savita and others Vs. Union of India and others AIR 1985 SC 1124 “ Daily rated casual labour employed under P& T department through Bharti Dak Tar Mazdoor Munch Vs. Union of India and Others, AIR 1987 SC 2342, “ Daily Municipal Karam chari Ekta Union (Regd.) Vs. P. L Singh and others AIR 1988 SC 519”, “ Jaipal & Others Vs. State of Haryana & Others , AIR 1988 SC 1504 “ the court held : “The aforesaid comprehensive survey of the case law on the subject disclose that within a period of a quarter of a century the doctrine of equal pay for equal work’ has passed through a conscious process of reformation and refinement as the result of the gradually forwarded looking posture of the apex Court. What was regarded once as a mere golden thread running through the preamble and the Directive principle of State policy and probably believed to be a sheer rhetoric or demagogic slogans and not right enforceable as such has now been woven into the fabric of, Fundamental Rights guaranteed by Article 14 & 16 and hence a constitutional goal attainable by resort to the constitutional remedies provided by Article 32 and 226 the former being a Fundamental Right in its own turn. The right can be invoked and enforced through the judicial process in cases of unequal pay or scale of pay based on no classification or irrational classification, though those drawing the different wages of different scales of pay do the same or broadly similar work”.

14. The learned counsel also argued that the department could not justify why the remaining charge sheets as per detail given under para 2 (1 to 4) has not been finalized. As regard the charge sheet for remaining on unauthorized leave has not been proved as the department has failed to place the relevant record or prove that the official remained unauthorized absent during this period. There is also nothing on record that charge sheet dated 6.5.1989 regarding stealing uniform cloth from the respondent office is based on some documents. The witness produced by the respondent could not explain or give any detail of the theft committed by the official in 1989. No FIR has been registered or any action taken against the deceased till he was alive which also proves that allegations leveled against the deceased (Ashok Kumar) are all false and without any base. It further shows that the department only want to harass the deceased by not deciding the charge sheets pending against him for years together. It is the mandatory requirement that before imposing penalties a show cause notice be issued to the delinquent official which is missing in the case in hand. Hence, all the action taken by the respondent are illegal and is liable to be set-aside. The service of the deceased (Ashok Kumar) has been illegally terminated without proper enquiry and action taken by the respondent is illegal and deceased (Ashok Kumar) is deemed to be on duty till his date of retirement. Accordingly issue No- 1 & 2 are decided in favour of the applicant and against the respondent.

Issue no-3.

15. Onus to prove issue No -3 about the maintainability of the present petition was on the respondent but the respondent has miserably failed to prove how the present petition is not maintainable. Accordingly issue No-3 is also decided against the respondent.

In view of my findings on the aforesaid issues the termination of the deceased (Ashok Kumar) w.e.f. 30.6.1997 is held illegal and is accordingly set-aside. The petitioner Smt. Rajni Gupta widow of late Shri Ashok Kumar Gupta is held entitled for all service benefits of the

deceased. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today On this 18th day of September 2007.

(L.N SHARMA)

Ref.156/2006

S/Shri Naresh Kumar and others.

V/S

Managing Director, M/S Royal Biscuit Factory .H.O.Rajpura Unit at Parwanoo,
District Solan, H.P.

23.10.2007

Present: None.

Petitioner No.1,2, 4,8,16 & 20 are already ex-parte. Petitioner No.5, 7, 9,10,14,15 who are served for today are also absent and they are proceeded ex-parte. The respondent company has been served through affixation as per report received but none appeared. The respondent also preceded ex-parte. As none is appearing, it seems that the petitioners are not interested, the reference is accordingly dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

Ref. 30/2006

Shri Mast Ram

V/s

Executive Enginner,HPPWD Division No.II Chaura Maidan, Shimla

6.10.2006

Present: Shri Mast Ram, petitioner in person.

Shri T.C. Kainthla, Ld. DDA for the respondent.

The petitioner has stated that he does not want to press the present reference as per his statement recorded separately and placed on the court file.

In view of the statement the present reference is dismissed as not pressed. Let a copy of this order be sent to the appropriate Government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

In the court of L. N. Sharma, Presiding judge, H.P Industrial Tribunal-cum-Labour Court, Shimla

Ref No. 41 of 2005

Instituted on:-16.5.2005

Decided on:- 8.10.2007.

Dila Ram, S/o Shri Jwala Ram, Village Dabari, P.O Kunihar Tehsil Arki, District Solan, H.P through J.C Bhardwaj, President, HP AITCU, HQ Saproon, Solan H.P. *..Petitioner.*

Versus

M/s Ta-Tung Chinees Shoes Shop, 20 The Mall Shimla H.P through its partner *..Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner:- Shri J.C Bhardwaj, AR.

For respondent:- Shri Tarun Vaid Advocate.

AWARD

1. The following reference has been received for the adjudication by this Court from the appropriate government:-

“कि क्या कामगार श्री दिला राम द्वारा वर्तमान में किराए के मकान को न छोड़ने पर प्रबन्धक मैसज टा. टुंग चाइनिज शू शाप, 20, दी माल शिमला-1 द्वारा उसे औद्योगिक विवाद अधिनियम, 1947 की धारा 25 (एफ) का पालन किए बिना दिनांक 4.1.2004 से नौकरी से निकाला जाना उचित एवं न्याय संगत है ? यदि नहीं, तो कामगार श्री दिला राम किस वरिष्ठता, सेवा लाभों एवं राहत का पात्र है ?”

2. The petitioner has filed the claim alleging that he was employed by respondent in October 1989 where he worked till 4.1.2004. The services of the petitioner has been illegally

removed by the respondent without any justification. The petitioner was employed on piece rate basis and his monthly wages were between Rs. 2600/- to Rs. 3000/- P.M. The petitioner has completed 240 days in each calendar year and he has attained the permanent status of a workman. Junior to the petitioner were retrained in the employment in violation of section 25-F and section 25-G of the Industrial disputes Act, 1947. The removal of the petitioner is become illegal and liable to be set-aside. The respondent firm cannot remove the workers without any reason. The respondent was required to serve one month notice or to pay wages in lieu of notice before the removal of the petitioner. The petitioner has suffered financial losses because of this illegal removal. He prayed for his reinstatement.

3. The respondent has filed the detailed reply taking preliminary objection that the petitioner estopped to file the present claim due to his own act conduct. The petitioner has left the job at his own without intimation to the respondent. The petitioner also removed the tools etc. on 4.1.2004. The petitioner was asked to vacate the residential quarter given to him in lieu of his service. The petitioner has also attained the age of 65 years and due to his old age he is not in a position to do work. On merit, the respondent has denied the contents of the claim alleging that the petitioner has left the job without any notice. He was working on per piece rate basis hence, the payment of wages does not arise. He has also denied that the petitioner not worked for 240 days in any calendar year. The petitioner is not a workman hence, the provisions of section 25-F of the Act, is not applicable. The respondent has also alleged that the applicant himself has left the job without any notice and due to his old age he is unable to do work. The respondent has denied the remaining contents of the claim and prayed for the dismissal of the reference.

4. The petitioner has filed the re-joinder wherein he controverted the stand taken by the respondent and reaffirmed the contents of the petition and prayed for the relief.

5. On the basis of pleadings of the parties, the following issue were framed by this Court on 19.5.2006.

1. Whether the services of the petitioner has been illegally terminated by the respondent w.e.f. 4.1.2004 without complying with the provisions of Industrial disputes Act, 1947? If so its effect? *OPP.*
2. If issue No-1 is proved in affirmative to what relief of service benefits the petitioner is entitled to? *OPP.*
3. Whether the petitioner is estopped for filling the petition due to his own act conduct and deeds? *OPR.*
4. Whether the petitioner is over age and the reference is not maintainable? *OPR.*
5. Relief.

6. Both the parties have lead their evidence in order to prove their case. I have heard the learned counsels for the parties and also gone through the record, my findings on the aforesaid issue are as under:

FINDINGS

Issue No: 1.	No.
Issue No.2.	Not entitled for any relief.
Issue No-3.	No.
Issue No-4.	No.
Relief.	Reference dismissed as per operative part of the award.

REASON FOR FINDINGS

ISSUE NO: 1, & 2

7. Both these issues being interlinked and interconnected are taken up together for discussion and decision. In order to prove the case about the illegal removal of the petitioner, he stepped into the witness box to support the entire contents of the petition. The petitioner has alleged that he was engaged by the respondent as Shoe Maker in 1979 (In petition the year of appointment is given 1989. He has alleged that he was removed by the respondent on 3.1.2004, whereas in the petition the date is given as 4.1.2004. The petitioner has stated that he was working on piece rate contract and he was earning Rs. 2600/- to Rs. 3000/- P.M. He worked for 24 years continuously and also completed 240 days in each calendar year. He was removed because he demanded for higher rate for the work. The respondent has promised that he will revise their rate after 2 years which was not done. No notice or compensation has been paid to him at the time of his removal. He is not in service and prayed that he be reinstated with all benefits. In cross-examination, the petitioner has stated that he is living in Shimla for the last 26 years and working at the shop of Samsung Company prior to coming the respondent shop. He worked for 15-16 years under Samsung & Company. He has admitted that he was receiving the payment per piece rate of shoe and getting the payment on the number of shoes, he prepared during the month. The rate per piece was Rs. 20, Rs. 30/-, Rs. 40/-. The petitioner has also admitted that the respondent has allotted him a house to stay when he was working in the shop and the house is still in his possession.

8. He has also produced one Shri Devnandan Ram, who has stated that the petitioner is known to him since 1982. The witness has stated that he requested the respondent that he should get the work done from the petitioner and make the payment to him but the respondent told that he does not require the services of the petitioner. In cross-examination he has admitted that they are getting the payment according to number of shoes which they prepared in a day or month. The rate per pair of shoes is fixed and they are getting the payment as per rate fixed. The petitioner was also getting the payment as per contract with weekly holiday. They are getting Rs. 35 to Rs. 40 per piece rate at present.

9. The respondent also stepped into the witness box and stated that he is running the shop in Shimla. The petitioner was working in his shop since 1984 and he was preparing sole of the shoes on piece rate basis. No fixed salary was paid to them and the petitioner was not in his employment but he was working on contract basis. The petitioner left the job in Jan. 2004 after taking all his dues and thereafter he never returned. The present petition has been falsely filed and the petitioner is not entitled for any relief. In cross-examination, he has stated that his shop is registered but denied that he was sending the list of the employees to the concerned department at the time of the renewal of the shop license. He has denied that the petitioner was preparing the complete pair of shoes but stated that he was preparing only sole of shoes. He has denied that he was paying monthly salary to the petitioner but he was paying per piece rate basis. The payment was made on every Saturday. Attendance register of all the persons who were working in the shop were also kept. There is no wages register. He has denied that the petitioner was working since 1979 but stated that he was working since 1984. He has denied that the service of the petitioner has been removed by him. The respondent has stated that the petitioner himself stopped coming. No letter has been issued to the petitioner when he left the job as he was not having any address.

10. From the perusal of the entire oral as well as documentary evidence, it has been admitted that the petitioner was working at the shop of the respondent since Oct. 1989 or 1984 as admitted by respondent but not from 1979 as stated by the petitioner in his statement. It has also been proved that the petitioner was preparing the sole of shoes and getting the payment on per piece rate basis. It has been admitted by the petitioner that the payment was being made to him on piece rate basis by the respondent. The respondent has also given him the residence to stay during the employment. The only stand of the petitioner is that he has been illegally removed from service without any notice and compensation, but the petitioner has miserably failed to prove that his services were terminated by the respondent. Even by producing PW-2, it has not been proved that the services of the petitioner were illegally terminated by the respondent. Moreover, the PW-2 is working in some other shoes company hence, his statement that the respondent told him, cannot be believed. The petitioner has failed to produce co-workers working with him under respondent to prove that his services were illegally terminated by the respondent w.e.f. 4.1.2004. The petitioner has sent the demand notice under section 2 A of the Industrial Disputes Act, 1947 to the respondent wherein under para 1 he has specifically mentioned that the respondent refused to give him any work and also stopped his entry in the shop which fact has not been disclosed by him when he stepped into witness box hence, the plea of the petitioner that his services were illegally terminated without any notice or compensation cannot be accepted. As the services of the petitioner has not been terminated hence, the question of complying with the provisions of Industrial Disputes Act, 1947 does not arise. The respondent has stated on oath that the petitioner has taken all his dues in Jan. 2004 and thereafter he never returned to the shop. In cross-examination the respondent has denied the suggestion that the services of the petitioner has been illegally terminated without any notice or compensation but the witness has stated that the petitioner has estopped coming to the shop hence, the plea that the services of the petitioner has been illegally terminated cannot be accepted. Accordingly issue No-1&2 are decided against the petitioner.

Issue No-3 &4

11. Onus to prove, both the issues were on the respondent but the respondent has failed to state how the petitioner is estopped from filing the present petition or the reference is not maintainable due to over age of the petitioner. No doubt that the petitioner himself has stated that he is aged about 60 years but the plea that the petitioner is over aged has not been proved by the respondent hence, both the issues are decided against the respondent.

In view of my findings on the aforesaid issues, there is no merit in the present reference and the same is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open court today of this 8th October of 2007.

(L.N SHARMA)

Ref.68/2005

Shri Rajeev Sharma

V/s

Manager, M/S Glied Impex Jharmajri, Barotiwala District Solan, H.P.

10.10.2007

Present: Sh.J.C. Bhardwaj, AR for the petitioner.

Respondent already ex-parte.

No Pw present. The case was listed for ex-parte evidence on 19.03.2007, 16.05.2007, 11.07.2007 and 18.10.2007. The petitioner has failed to appear in this Court and produce his evidence in support of his claim. Sh.J.C.Bhardwaj, AR who is present has stated that he had tried to contact the petitioner, but the petitioner has not come up for the evidence.

As the petitioner has failed to prove the claim filed by him, hence the reference is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour court, Shimla.*

**In the Court of L. N. Sharma, Presiding Judge, Industrial Tribunal-Cum-Labour
Court, Shimla**

Ref. No. 150 of 2003

Instituted On. 6.5.2003.

Decided On. 31.10.2007

Baldev Singh S/o Shri Durga Singh, Village Rohun, P.O.Boli, Tehsil & District Solan, H.P.

..Petitioner.

VERSUS

The Executive Engineer, Irrigation and Public Health Division, Saproon, District Solan H.P.

..Respondent.

For petitioner. Shri J.C Bhardwaj, AR.

For respondent. Shri T.C Kainthla, Ld. DDA.

AWARD

1. The following reference has been received for the adjudication by this Court from the appropriate government:-

“Whether the termination of service of Shri Baldev Singh S/o Shri Durga Singh, daily wages beldar by the Executive Engineer, I&PH Division, Saproon, District Solan, H.P. w.e.f. 1.8.2000 without complying with the provision of Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the aggrieved workman is entitled to ?”

2. “Whether Shri Baldev Singh S/o Shri Durga Singh, daily wages beldar has abandoned the job after 31.7.2000 as alleged by the Executive Engineer, I&PH, Division Saproon, District Solan is proper and justified? If not, what are its legal effects?”

2. The petitioner has filed the claim alleging that he was engaged by the respondent in 1985 but his services were terminated on 1.8.2000. The petitioner has completed 240 days in each calendar year but his services were terminated without any notice or compensation. Junior to him S/Shri Mohan Lal, Sohan Singh were engaged and they are still working. The engagement of the juniors is against the mandatory provisions of section 25-G & H of the Industrial Disputes Act, 1947. The petitioner has prayed for his reengagement.

3. The respondent has filed the detailed reply taking preliminary objections that the petitioner has not completed 240 days in any calendar year hence, the provisions of section 25-F of the Industrial Disputes Act, 1947 are not applicable. The petition is not maintainable as the petitioner has not been terminated by the respondent. On merit, they have denied the contents of the claim but alleged that the petitioner was engaged on 6.10.1992 and he worked till 31.7.2000 without completing 240 days in any calendar year. Mohan Lal and Sohan Singh have joined their duties when the department has received the funds from the government but the petitioner failed to report for duties. The mandays chart of S/ Shri Mohan Lal and Sohan Singh is appended with the reply. Shri Sohan Singh has joined the department in Feb. 1995 and Mohan Lal in June 1996. Their service were retrenched in August 2000 but they again rejoined the department in Nov. 2000 and December 2000. They have denied the remaining contents of the petition and prayed for the dismissal of the claim.

4. The petitioner has filed the rejoinder wherein he controverted the stand taken by the respondent and reaffirm the contents of the petition and prayed for the relief.

5. On the basis of the pleadings of the parties, the following issues were framed by this Court on 4.4.2006.

1. Whether the services of the petitioner has been illegally terminated by respondent w.e.f. 1.8.2000? If so, its effect? *OPP.*

2. If issue nO-1 is proved in affirmative to what relief the petitioner is entitled to?

OPP.

3. Whether the petitioner has abandoned his job and the present petition is not maintainable? OPR.

Relief.

6. Both the parties have lead their evidence in order to prove their case. I have heard Shri J.C Bhardwaj, AR for the petitioner and Shri T.C Kainthla, Ld. DDA for respondent and also gone through the record, my findings on the aforesaid issue are as under:

FINDINGS

Issue No: 1.	Yes.
Issue No.2.	Entitled for reinstatement.
Issue No-3.	No.
Relief.	Reference allowed as per operative part of the award.

REASON FOR FINDINGS

ISSUE NO: 1, & 2

7. Both these issues being interlinked and interconnected are taken up together for discussion and decision. In order to prove the case, Shri Baldev Singh has stepped into the witness box and stated that he was engaged as beldar in 1st Jan. 1992. He worked till 1.8.2000 and his services were illegally terminated without any notice or compensation. Junior to him S/Shri Mohan Lal and Sohan Singh were engaged. He has earlier approached the Administrative Tribunal for his reengagement but the petition was withdrawn. He had worked for more than 240 days in each calendar year. In cross-examination, he has stated that Mohan Lal and Sohan Singh are still working at kumarhatti. He do not know whether he was engaged only for 89 days. S/Shri Mohan Lal, Madan Verma, Ranjeet were working with him and they were removed alongwith him. He has denied that he has abandoned the job but stated that he was removed from the service. The petitioner has denied that he never approached the department for his reengagement. He do not know whether there were six vacancies as per muster-roll for Sep. 2000 but only four persons reported for duties. He has denied that he has not completed 240 days in any calendar year.

8. The respondent has examined two RWs. RW-1 Shri Ranvir Singh, who has stated that the petitioner was working under him. The work in the Pump House was permanent and regular. The petitioner was shifted to some other work. The petitioner was not removed by the department but he abandoned his job. In cross-examination, there was no complaint about the work of the petitioner. He is not knowing that Mohan Lal and Sohan Singh are junior to the petitioner and are still working.

9. RW-2 Shri K.S Bedi, Executive Engineer who has stated that the petitioner was engaged as beldar on 6.10.1992 where he worked till 31st july 2000. The petitioner was not regular in his duties. In August 2000 muster roll was issued for six persons but only four persons reported for duties. The muster roll is Ex. RA. New persons were engaged after the absence of the petitioner. In cross-examination the witness has stated that no report has been received by him that the petitioner is not coming for duties. No notice or compensation has been paid to him, as he failed to report for his duties. He has denied that Mohan Lal and Sohan Singh were given the work whereas no works was allotted to the petitioner.

10. From the perusal of the entire oral as well as documentary evidence, it has been admitted by the respondent that the petitioner was engaged in October 1992 and he work till 31st July 2000. Only dispute in the case is that the respondents have alleged that the petitioner has not completed 240 days in any calendar year, whereas the petitioner has stated that he worked for more than 240 days in each calendar year which fact has not been proved from record. However, it has been proved that S/Shri Mohan Lal and Sohan Singh are junior to the petitioner as is evident from the mandays chart placed on the Court file. Mohan Lal has joined his duties in June 1996 and Sohan Singh reported for duties in Feb. 1995 whereas the petitioner has joined the department in October 1992 which fact has been admitted by RW-2 Shri K.S Beddi, Executive Engineer. It is well settled that no junior can be engaged ignoring the senior persons as per law laid down by their lord of Hon'ble Supreme Court reported in 2007 LLR page 73 titled as State of Haryana Vs. Dilbagh. Singh.

Relevant para 3 is reproduced:-

“We have heard learned counsel for the parties. Learned counsel for the appellant has failed to substantiate that no person junior to the respondent has been retained in the department. It is a clear findings of the Tribunal that a person like Krishan S/o Dharam Singh, who is junior to the respondent is still working with the Management whereas the services of the respondent had been terminated. It is also alleged that another person named Mahabir who is also junior to the respondent is still working with the Management. Therefore, the Tribunal has found the violation of section 25-G and 25-H of the Act. This findings of fact has not been controverted by the management and there is no reason to take a different view from the view taken by the Tribunal which was affirmed by the High Court. Hence, we find no merit in this appeal and the same is accordingly dismissed. The respondent shall be reinstated but looking into the peculiar facts and circumstances of this case, he will not be entitled to any back wages. The appellant shall issue order of appointment of the respondent within one month from the date of receipt of this order. There will be no order as to costs.

11. In view of the above discussion and the law laid down by Hon'ble Supreme Court the petitioner who was senior to S/Shri Mohan Lal and Sohan Singh has not been reinstated by the department for the reasons best known to them. The department has committed the breach of section 25-G and 25-H of Industrial Disputes Act, 1947. Accordingly issues No-1 & 2 are decided in favour of the petitioner and against the respondent.

Issue No-3

12. Onus to prove issue No-3 was on the respondent but the respondent has failed to produce any evidence proving that the petitioner has abandoned his job and in such situation an adverse inference is required to be drawn against the respondent. Accordingly issue No-3 is decided against the respondent.

In view of my findings on the aforesaid issues, the present reference is allowed and the petitioner is held entitled for his reengagement forthwith without seniority and back wages. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open court today of this 31st October of 2007.

(L.N SHARMA)

**In the Court of L. N. Sharma, Presiding Judge, H.P Industrial Tribunal-cum- Labour
Court Shimla.**

Ref No. 204 of 2003

Instituted On : 4.8.2003

Decided On. 1.10.2007

Ramesh Kumar Sharma, S/o Shri Jagdish Chand, Village Karara Ghat, P.O. DanoGhat,
Tehsil Arki, Distt. Solan, H.P. ..Petitioner

Versus

The Sub-Divisional Officer Dodra Kwar & Another ..Respondents

Reference under section 10 of the Industrial disputes Act, 1947.

For Petitioner: Shri J.C Bhardwaj, AR.

For respondents: Shri T.C Kainthla, Ld. DDA.

AWARD

1. The present reference has been received from appropriate government for adjudication by this Court:

“Whether the termination of services of Shri Ramesh Kumar Sharma, daily wages supervisor/ Peon by the Sub-divisional Officer (Civil) Dodra Kwar, District Shimla, H.P. 2. and the Deputy Director of Agriculture, H.P. Shimla- 171003 w.e.f. 1.6.2001 without complying with the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the aggrieved workman is entitled to?

2. The petitioner has filed the claim alleging that he was engaged as daily paid Supervisor by respondent in September 1997 at Dodra Kwar. The appointment letter dated 10.3.1999 has been given to the petitioner. The petitioner has worked with the respondent as Supervisor and he was discharging his duties sincerely to the satisfaction of his superiors. The respondent No-1 who was the Head of Department under single line administration has recommended the name of the petitioner for training to the Director of Horticulture vide letter dated 19.3.1999. The petitioner has completed 240 days in each calendar year without any break and he is entitled for the protection of Labour Law. The petitioner has worked as Supervisor upto 31.12.1999 and thereafter his designation has been changed as Peon w.e.f. 1.1.2000 without compliance of Section 9-A of Industrial disputes Act, 1947 as no employer can effect any change in the condition of service without the consent of the workman. The petitioner worked as Supervisor upto 31.5.2001 and his services were illegally terminated by the respondent w.e.f. 1.6.2001. The wages of the petitioner from 1.1.2000 to 31.5.2001 has also not been paid to him. The sudden removal of the petitioner is illegal. No notice of retrenchment or compensation in lieu of notice has been paid to the petitioner. Hence, the termination is nullity in the eyes of law and the petitioner has prayed that he be reinstated with all back wages and seniority.

3. No reply has been filed by respondent No-1. The respondent No-2 has denied all contents of the claim alleging that the respondent No-2 had never allotted any budget to respondent No-1. The petitioner was not appointed by respondent no-2 hence, the respondent No-2 is not laible for reinstatement of the petitioner.

4. The petitioner has filed the rejoinder wherein he controverted the stand taken by the respondent and reaffirm the contents of the claim and he prayed for relief.

5. On the basis of the pleadings of the parties, the following issues were framed by this Court on 31.8.2005.

1. Whether the termination of services of petitioner by respondent w.e.f. 1.6.2001 without complying with the provisions of I.D Act, 1947 is proper and justified?

OPR.

2. If issue No-1 is not proved in affirmative to what relief of service benefits the petitioner is entitled to?

OPP.

3. Relief

6. Both the parties have lead their evidence to prove their case. I have heard the learned counsels for the parties and also gone through the record. My findings on the aforesaid issues are as under:-

Issue No-1.

No.

Issue No-2.

Petitioner is entitled for reinstatement.

Relief.

Reference allowed as per operative part of the award.

REASONS FOR FINDINGS

7. Issue No-1 & 2 are taken up together as they are interlinked and interconnected for the purpose of discussion and decision. In order to prove the case, the petitioner has stepped into witness box and he supported the entire contents of the claim. The petitioner has proved that he was appointed as Supervisor on 6.9.1997 at Dodra Kwar. Appointment letter is Ex. PA. He was again reverted as Peon on 5.1.2000 as per letter Ex.PB. He was working for respondent No-2 at Dodra Kwar and he was also deputed for training as Supervisor vide letter Ex. PC. Director of Agriculture has asked about the education and seniority of the petitioner. The detailed mandays chart of the petitioner was sent to respondent No-2 by SDM (Civil) Dodra Kwar vide letter mark A/2. The petitioner was removed from service on 1.6.2001. The petitioner approached the Administrative Tribunal which case has been dismissed as per order Ex. PD. No notice or compensation has been paid to him before his removal. He prayed for his reinstatement with all benefits. In cross-examination, the witness has stated that he is having no relation or property in Dodra Kwar. He has admitted that there was no post of Supervisor at Dodra kwar and he was made peon. He has received letter Ex. RA but he had not given any reply of the letter. He has denied that he never worked at Dodra Kwar and the record has been created later on. He had

received the payment for the period he worked at Dodra Kawar. He has admitted that respondent No-1 has engaged him at Dodra Kawar. He has denied that he was engaged on daily wages with connivance of the than SDM Dodra Kawar. He has denied that he is not entitled for any relief.

8. The respondent has produce one Clerk from the office of the SDM (Civil) Dodra Kawar who has stated that the petitioner was engaged in Sep. 1997 as Supervisor in Agriculture Department which was under the SDM (Civil) Dodra Kawar. The petitioner was engaged as there was no other official of respondent No-2 to look after the work of Agriculture Department. Work in Dodra Kawar is only for six months and thereafter due to snow fall all the works are stopped. Name of the petitioner also recommended for the training of Supervisor, as the petitioner could not produce his education certificate he was not considered for the training by the department. The petitioner has worked as Supervisor upto 31.12.1999 and thereafter, the petitioner has been reverted as peon where he worked from 1.1.2000 to 31.5.2001. The petitioner himself abandoned the job and left the Dodra Kawar. In cross-examination, the witness has stated that the Director of Agriculture was informed at the time of appointment of the petitioner. The name of the petitioner was sponsored for training by SDM Dodra Kawar. He has denied that no training was given to the petitioner as he was not recommended. He is having no record to prove that the petitioner was asked to furnish his qualification certificate before training. The mandays chart of the petitioner is Ex. PE. No notice or compensation has been paid to the petitioner as he was not removed by their department. No letter asking the petitioner to join back has been issued by their department. He do not know whether the petitioner has been removed from service but he is making the statement on the basis of the record.

9. The respondent No-2 has not produce any evidence to defend his case.

10. From the scrutiny of the entire oral as well as documentary evidence it has been proved by the petitioner that he was engaged as Supervisor by respondent No-1 to look after the work of respondent No-2. The petitioner has also proved that he was engaged as Supervisor by respondent No-2 vide letter dated 10.3.1999, Ex. PA. The petitioner also proved that he was reverted as peon vide letter Ex. PB dated 5.1.2000. The petitioner has proved that the Director of Agriculture has taken up the matter with the SDM Dodra Kawar vide letter dated 13.1.2000. It has been proved on record that the SDM Dodra Kawar who was head of single line administration about the engagement the petitioner to look after the work of Agriculture Department as per letter Endst. No. Ex PA & Ex. PB. The SDM Dodra kawar has very specifically mentioned that the petitioner was engaged as there was none to look after the work of the respondent department as Mohan Lal Agriculture Development Officer was retired on 28.2.1998 and Shri D.D Bali who was transferred in his place got himself shifter to Una hence, the petitioner has been engaged as Supervisor. Copy of the letter is Ex. PC placed on the Court file. It is very strange that the respondent Agriculture Department has only involved in unnecessary correspondence with SDM Dodra kawar stating that the petitioner was not engaged by them and they are not liable to accommodate the petitioner but the plea of the respondent can not be accepted particularly when the respondent department was knowing that there work at Dodra kawar is being looked after by the petitioner because the officer D.D Bali who was posted as Agriculture Development Officer got his transfer cancel and shifted to Una. The Director of Agriculture was well aware about the appointment of the petitioner as copy of appointment letter was Endst. To Deputy Director Agriculture vide letter Endst. Dated 5.1.2000 Ex. PB. It has been proved on record by respondent No-1 Birender Singh from office of SDM Dodra kawar that the petitioner was engaged on 6th Sep.

1997 and he has completed more than 240 days in 1998 to 2000. The witness has simply stated that the petitioner has left the job at his own and he has not been retrenched or removed from service by their department. But the plea of RW-1 Birender Singh can not be accepted as the petitioner has immediately agitated the matter before the Administrative Tribunal but the case has been dismissed as withdrawn vide order dated 19.6.2001 Ex. PD.

11. It has been proved by the petitioner that he was engaged by respondent No- 1 to look after the work of Agriculture Department at Dodra Kwar where he served for more than 4 years and has completed 240 days in each calendar year. It is well settled that no workman can be removed without compliance of section 25-F of the industrial disputes Act, 1947 which is missing in the case in hand hence, the removal of the petitioner become illegal and is liable to be set-aside. The respondent No-2 has only tried to shift the liability on respondent No-1 with the plea that the petitioner was not engaged by them or they never provide any budget for his payment but this plea can not be accepted as SDM Dodra Kwar has justified the engagement of the petitioner as there was none to look after the work of Agriculture Department. Further, during the course of argument the petitioner has produce one letter dated 19.3.2001 issued by Agriculture Prasar Adhikari whereby the petitioner was directed to receive the Agriculture instruments from Suresh (Mule man) under intimation to the office. All the Agriculture instruments be kept properly till the same are not distributed to the agriculturist of the area hence it can not be believed that the Agriculture Department was not aware about the engagement of the petitioner.

12. Respondent No-2 has simply taken the plea to shift the liability to the SDM (Dodra Kwar) which can not be accepted. As the petitioner has proved that he was engaged as Supervisor and reverted as peon by respondent No-1. The petitioner has also proved that he worked for more than 240 days in each calendar year and his removal by respondent No-1 is illegal and is liable to be set-aside. The respondent No2 has not produced any evidence however the official of SDM Dodra Kwar respondent No-1 was examined who has proved that the petitioner was engaged as Supervisor and thereafter reverted as peon Ex. PA and Ex. PB. Placed on the Court file. The removal of the petitioner without the mandatory compliance of section 25-F of Industrial disputes Act, 1947 is illegal and the petitioner is entitled for his reinstatement with seniority and 50% back wages. Accordingly issue No-1 and 2 are replied.

In view of my findings on above, the present reference is allowed and petitioner is held entitled for his reinstatement with back seniority and back wages @ of 50 % till his reengagement at Dodra Kwar from where the petitioner has been removed from service by respondents. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room

Announced in the open Court today of this 1st October 2007.

(L.N SHARMA)

Ref.84/2003

Shri Ramesh Chand

V/s

Executive Engineer, HPSEB, Rampur, District Shimla, H.P.

23.10.2007

Present: None for the petitioner.

Shri Bhagwan Chand Advocate for the respondent.

Today the case was fixed for respondent evidence but as the petitioner is not present, the reference is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Ref.85 of 2007

Sh. Varinder Kuamar

V/s

G.M.M/s Pronto Steering Ltd. Parwanoo.

26.11.2007

Present: None for the petitioner.

Shri Jagdish Thakur, Advocate for the respondent.

Shri Jagdish Thakur has stated that the petitioner has settled all the dispute with the management in full & final payment of Rs. 15,507/- (Fifteen Thousand Five Hundred Seven only) which amount has been paid to him through Cheque. The learned counsel filed the receipt of payment alongwith resignation letter of the petitioner, which is placed on the Court file as Ex. C-1 & Ex. C-2.

As the dispute stand settled the present reference is dismissed as compromised. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Ref. 130/2006

Sh. Pawan Kumar

V/s

M/S Sinar Blbus

Tubes Ltd. Barotiwala Distt. Solan.

2.11.2007

Present: None.

Case called thrice. None appeared. Hence, the present reference is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Ref.338/2003

Sh. Pritam Chand

V/s

M/s Samtal India Ltd.Parwanoo,.

6.11.2007:-

Present: Shri Rupesh Sharma, Advocate for the petitioner.

S/Shri S.K. Jha and S.D.Gill, Advocate for the respondent.

The parties have settled the entire dispute in full and final payment of Rs. 75,000/- (Seventy Five thousand only) . Demand Draft of Rs.75,000/- dated 3.11.2007 payable at Punjab National Bank Nalagarh, is handed over to the petitioner today in the court. Memorandum of settlement Ex.CA filed.

In view of the settlement, the present reference is dismissed as fully satisfied. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Ref.6/2002

Sh. Bhawani Shanker

V/s

The D.F.O.Poanta Sahib.3.11.2007.

Present: None.

Case called thrice. None appeared on behalf of the parties. Hence, the present reference is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

Ref.173/2003

Sh. Shyam Lal

V/s

Baljee Canterers Ltd. Shimla

19.11.2007

Present : Sh.Swaran Sharma,Advocate for the petitioner.

Shri Varinder Tejta, Advocte for the respondent.

Conciliation tried. Shri Shyam Lal petitioner has stated that he had settled all the claim with the respondent in full and final payment of Rs.25,000/-(Twenty Five thousand only) out of which Rs.1500/-(Fifteen thousandonly) has been received by him on 16.11.2007 and remaining Rs.10,000/-(Ten thousand only) has been received by him today in the court . It is the full and final settlement of all the claims . Statement of both the parties recorded which is placed on the court file

In view of the full and final settlement , the present reference is dismissed as compromised . Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shinmla.*

Ref.164/2001

Sh. Roop Lal

V/s

The Ex.Engg, HPSEB, Rajgarh.

6.11.2007:

Present: Shri J.C.Bhardwaj, AR for the petitioner.

Ms.Shilpa Sood, Advocate for the respondent

No Pw is present. From the perusal of the court file it appears that issues in this case were framed on 3.3.2005 and the case was listed for respondent evidence. Thereafter, the case for petitioner has been fixed on 3.11.2006 but no pw was present and the case was adjourned for 12.1.2007, 9.5.2007, 9.8.2007, even today no Pw is present. As the petitioner has failed to prove that his services were illegally terminated by the respondent without complying with the mandatory provisions of Industrial Disputes Act, 1947. The non appearance of the petitioner only proved that he is not interested in the present case. The petitioner has to prove that he worked continuously for one year and his services were terminated without any notice or compensation, which he failed to prove. Accordingly, the present reference is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Rf.105/2006

Sh. Nand Lal

V/s

M/s Hi-Volt Magnet Wires Pvt. Ltd. Baddi.

14.11.2007

Present: None.

Case called thrice none has appeared. It is already 3.00 p.m. Accordingly the reference is dismissed.

Let a copy of this order be sent to the appropriate government for publication in the official gazette.

Announced.

Sd/-
Prsiding Judge
Labour Court, Shimla.

Ref.52/2007

Sh. Manoj Kumar

V/s

Management M/s Sintex Industries Ltd. Baddi.

26.11.2007.

Present: None for the petitioner.

Respondent already ex-parte.

Case called thrice. None has appeared on behalf of the petitioner accordingly the present reference is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

Ref.58/2004

Sh. Sita Ram

V/s

The G.M. M/s Sidhartha Super Spinning Mills Nalagarh.

7.11.2007

Present: Shri J.R Poswal, Advocate for the petitioner.

Shri Rajeev Sharma, Advocate for the respondent.

Conciliation tired. The petitioner has stated that he is willing to work under the respondent company. He will not leave the working place without obtaining proper permission from the management and in case of any breach, the management will be at liberty to initiate disciplinary action against him. The statement of the petitioner recorded which is accepted by Shri Hari Om Gupta Manager respondent company. Shri Gupta has also consulted that the company will give the increments to the petitioner since June 2002 and also continuity in service.

In view of the statement of the parties, the present reference is dismissed as compromised. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

The President Mohan Meakin Staff Union

V/s

The M.D.Mohan Meakin Ltd. Gazibad.

15.11.2007

Present: Sh. Baldev Verma, AR for the petitioner.

Sh.Sudesh Kumar, AR for the respondent.

Sh. Baldev Verma, AR for petitioner has stated that as per the instructions from the petitioner, he does not want to press the present reference. Statement of Sh. Baldev Verma is recorded and placed on Court File.

In view of above statement, the present reference is dismissed as not pressed. Let a copy of this order be sent to the appropriate government for publication in Official Gazette.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

Ref.66/2007

Sh. Manoj Kumar

V/s

The M.D.M/s Khaithan Manufacturing Company, Baddi.

28.11.2007.

Present: None.

Case called thrice. None has appeared on behalf of the petitioner despite service. Hence, the reference is dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
*Presiding Judge,
Labour Court, Shimla.*

Ref.39/99

Sh. Diwan Chand

V/s

M/s Khanna Watches Ltd Parwanoo.

27.11.2007

Present: Sh. J.C.Bhardwaj, AR for the petitioner.

Sh.Amit Sharma, Advocate along with S/Shri H.D.Sharma, L.R.Kochhar, Directors for respondent.

Sh. H.D.Sharma, Director of respondent company has stated that they are prepared to pay the gratuity, 3 months notice pay, 15 days retrenchment compensation per year till the petitioner worked. The payment shall be made on or before 27.2.2008. The statement of Shri H.D.Sharma has been accepted by Shri J.C.Bhardwaj, AR for the petitioner which is placed on the Court file.

In view of the conciliation the present reference is dismissed as settled. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge,
Labour Court, Shimla.

Ref.98 of 2006

Sh. Chain Singh

V/s

The M.D.M/S Ashoka Spinners Ltd. Baddi.

27.11.2007

Present:- Sh. J.C.Bhardwaj, AR for the petitioner.

Sh. Shyam Sunder Sharma, Factory Manager for respondent.

Shri J.C.Bhardwaj, AR for the petitioner has stated that as per instruction the petitioner does not want to press the present reference, the same is accordingly dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Prsiding Judge
Labour Court, Shimla.

Sh. Kishori Lal

V/s

The M.D.Ashoka Spinners Ltd. Baddi.

27.11.2007

Present:- Shri J.C Bhardwaj, AR for the petitioner.

Shri Shyam Sunder Sharma, Factory Manager for respondent.

Shri J.C Bhardwaj, AR for the petitioner has stated that as per instruction, the petitioner does not want to press the present reference, the same is accordingly dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced.

Sd/-
Presiding Judge,
Labour Court, Shimla.

—————
**In the Court of L. N. Sharma, Presiding Judge, H.P. Industrial Tribunal-cum- Labour
Court Shimla.**

Ref. No. 106 of 2001

Instituted On. 23.6.2001

Decided On : 1.11.2007

Sumitra Devi , w/o late Shri Sardari Lal C/o Shri Jagdish Sharma, Jhiri Bala, P.O. Radu,
Tehsil Nalagrah, District Solan (HP) ..Petitioner.

VERSUS

The Managing Director, M/s United Vanaspati Ltd. Majhauri, Tehsil Nalagrah, District,
Solan, (HP) ..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner. Shri S.S Sippy, AR.

For respondent. Shri Sandeep Mahajan, Advocate.

AWARD

1. The following reference has been received for the adjudication by this Court from the appropriate government:-

“Whether the termination of services of Smt. Sumitra Devi, worker by the Management of M/s United Vanaspati Ltd., Majhauri, Nalagrah, District Solan, H.P. w.e.f. 23.5.2000 without any notice is justified? If not, to what relief of service benefits and amount of compensation, Smt. Sumitra Devi is entitled to?”

2. The petitioner has filed the claim alleging that she was engaged by the respondent company on 1.1.1983. She was having some swelling and scabies on her arm and she remained under treatment in Government Hospital Nalagrah. The Doctor advised her rest from 17th May to 22nd May 2000. The petitioner submitted her joining alongwith fitness certificate on 23.5.2000 but the respondent terminated her services. The petitioner has already completed 240 days in each calendar year. Her services were illegally terminated by the respondent w.e.f. 23.5.2000 without any notice or compensation. Her termination is void. Juniors to her are still in service which is also violation of section 25-G of the Industrial Disputes Act, 1947. She prayed for her reinstatement with all benefits.

3. The respondent has filed the detailed reply taking preliminary objections that the claim is not maintainable and the petitioner has not come to the Court with clean hands. The petitioner was employed on contract basis for washing the cloths only and there is no relationship of employee and employer between the petitioner and respondent. During the conciliation proceedings the matter was compromised under section 12(3) of the Industrial disputes Act, 1947 as the respondent has given consent to provide the work to the petitioner on fresh basis and she will not claim any benefits. On merits, they have denied the contents of the claim and alleged that the petitioner applied for the job as Savitri Devi and not as Sumitra Devi. The petitioner was engaged on contract basis and she being paid on daily wages as per settlement dated 1.10.1997. They have denied that the petitioner remained under treatment for her illness or she submitted her medical certificate. They have alleged that the petitioner failed to do the allotted work from 17.5.2000 and the management has issued a letter dated 23.5.2000 and 29.5.2000 regarding her absence. The petitioner remained absent without any leave and as per standing orders of the company, the petitioner lost lien from the job. The petitioner has leveled certain allegation against the management vide her letter dated 19.6.2000 alleging that she was not permitted to resume her duties. Earlier her stand was that she was under treatment from 17.5.2000 to 22.5.2000. They have denied that her services were terminated orally w.e.f. 23.5.2000 but the management asked the petitioner to resume her duties. They have alleged that the petitioner remained absent unauthorizedly. The petitioner was illiterate and cannot do any other job except washing the cloths. No junior persons have been engaged by the management for the work. They have denied the remaining contents of the claim and prayed for dismissal.

4. The petitioner has filed the re-joinder wherein she has controverted the stand taken by the respondent and reaffirmed the contents of the petition and prayed for the relief.

5. On the basis of pleadings of the parties, the following issues were framed by this Court on 19.8.2002.

1. Whether the termination of services of the petitioner by the respondent w.e.f. 23.5.2000 is without any notice & thus unjustified? OPP.

2. Whether the reference is not maintainable in view of preliminary objections No 1& 3.
OPR.

Relief.

6. Both the parties have lead their evidence in order to prove their case. I have heard the learned counsel for the parties and also gone through the record, my findings on the aforesaid issue are as under:

FINDINGS:

Issue No: 1.	Yes.
Issue No.2.	No.
Relief.	Reference allowed as per operative part of award.

REASON FOR FINDINGS

ISSUE NO: 1

7. In order to prove, whether the services of the petitioner were illegally terminated by the respondent w.e.f. 23.5.2000 or not. The petitioner stepped into the witness box and she supported the entire contents of the petition. She has very specifically stated that she applied to the management for her reengagement vide her application Ex. PW-1/A and Ex. PW-1/B. She also remained admitted in the Hospital from 17.5.2000 to 22.5.2000 for her illness which was inflicted during the course of employment. The medical certificate is Ex. PW-1/C. After her fitness she reported for duties and also submitted her medical certificate but she was not permitted to join her duties. She prayed for her re-engagement with all benefits. In cross-examination she has admitted that earlier she submitted one complaint to the Labour Inspector as her services were terminated earlier and thereafter she was reengaged. She was told that she was appointed against regular post. She was taken to the Hospital by Mr. Khan General Manager of the Company. She has denied that she was not admitted in the hospital but remained absent from duties. She has also denied that the management had written letters to her regarding her unauthorized absence. She has denied that she was called to join the duties by the respondent. The witness also denied that the medical certificate Ex. PW-1/C was not produced by her to the management.

9. The respondent has also examined one Shri Kulbhushan Sharma, Manager who has tendered an affidavit in his evidence Ex. RW-1/A. In cross-examination he has admitted that the payment was made on the basis of daily wages. No contract was entered in writing between the parties. He is also not knowing how letter Ex. R-3 and Ex. R-4 were sent to the petitioner. The witness has admitted that no charge sheet was issued to the petitioner regarding her absence from duties but stated that only letter Ex. R-3 and Ex. R-4 were signed in his presence.

10. From the scrutiny of the oral as well as documentary evidence, there is no dispute about the appointment of the petitioner by respondent company. It has also been proved on record that she fell ill and remained under treatment from 17.5.2000 to 22.5.2000 as per medical certificate Ex. PW-1/C. It has been proved by petitioner that earlier her services were terminated and when she raised demand notice, the respondent company compromised with her and she was taken back on duties. This fact has been admitted by respondent company in their written statement under para

4. The petitioner vide her application Ex. PW-1/A has stated that she was engaged on 1.10.1983 but her services were terminated w.e.f. 22.5.2000. The petitioner has even proved that she was taken to the Hospital by Mr. Khan General Manager of the company which fact has not been denied by the respondent company. The respondent could not prove how letter Ex. P-3 and Ex. P-4 were sent to the petitioner. There is no evidence to prove whether these letters were delivered to the petitioner or not. The petitioner who was working since Jan. 1983 has been removed by the respondent after about 17 years of job. The plea of the respondent is that the petitioner was engaged on daily wages as per oral contract entered between the parties but no such evidence has been produced before this Court and in such situation an adverse inference is required to be withdrawn. The respondent company has also failed to produce any record showing since when the petitioner was engaged by them. No appointment letter has been produced hence, the statement of the petitioner that she was engaged in Jan. 1983 is to be accepted. The petitioner has proved that she was ill from 17.5.2000 to 22.5.2000 and remained admitted in the Government Hospital Nalagrah as per medical certificate Ex. PW-1/C. She was not permitted to report for duties by respondent company. Her services were terminated unauthorizedly w.e.f. 22.5.2000 ignoring the medical certificate which the petitioner has produced at the time of her joining i.e. on 23.5.2000. No notice or compensation has been paid to her and her removal from service is illegal and contradictory to the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947. Accordingly issue No-1 is replied in favour of the petitioner and against the respondent.

ISSUE No-2

11. Onus to prove issue no- 2 was on the respondent but they have failed to prove how the present petition is not maintainable and how the present reference/ demand notice is in contravention to the settlement dated 1.10.1997. The respondent has not produced any settlement dated 1.10.1997 before this Court hence, issue No-2 is replied against the respondent.

In view of my findings on the aforesaid issues, the present reference is allowed and the petitioner is ordered to be reinstated w.e.f. 23.5.2000 with all seniority and back wages @ of 50%. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announce in the open Court today on this 1st November of 2007.

(L.N SHARMA)

In the Court of L.N Sharma, Presiding Judge, H.P. Industrial Tribunal-cum-Labour Court, Shimla.

Ref No. 58 Of 2006

Instituted On. 6.5.2006

Decided On. 14.11.2007

Shri Leela Dutt Sharma, S/o Shri Geeta Ram Sharma, R/o Village Dhala, P.O. Deothi, Tehsil & District Solan, H.P. ..Petitioner.

Versus

M/s Shiv Dayal Dharamsala Trust (Regd) The Mall Solan, H.P. through its President/ Secretary. ..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner: - Shri J.C Bhardwaj, AR.

For respondent:- Shri Parshotam Mahajan, Advocate.

AWARD

1. The following reference has been received for adjudication by this Court from the appropriate government:-

“Whether the termination of services of Shri Leela Dutt Sharma, S/o Shri Geeta Ram workman by the President, Shri Shiv Dayal Dharamsala Trust (Regd.) Solan, H.P w.e.f. 13.4.2004 without complying with the provisions of the Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation the above aggrieved workman is entitled to?”

2. The petitioner has filed the claim alleging that he was engaged as Chakitsak (Homeopath) in December 1996 at the salary of Rs. 3600/- P.M, which was never paid to him. He was paid only Rs. 2500/- P.M till Feb. 1999 and again his salary has been reduced to Rs. 2000/- P.M arbitrarily. The petitioner has submitted his representation but instead of releasing the salary, the respondent has locked the dispensary on 1.4.2004 and the petitioner was not permitted to work. He again brought this fact in the notice of the President of the Trust through RAD and also approached the Labour Inspector. The dispensary was again opened and the petitioner was allowed to work till 12.4.2004. On 13.4.2004 the services of the petitioner has been illegally terminated without the compliance of any provisions of law. No notice or compensation has been paid to him as required under section 25-F of the Industrial Disputes Act, 1947. The petitioner has completed 240 days in each calendar year. No enquiry has been held against him and his services were illegally terminated. After the termination of the petitioner, new persons were recruited in his place, in violation of section 25-G and 25-H of the Industrial Disputes Act, 1947. The petitioner prayed for the relief.

3. The respondent has filed the detailed reply taking preliminary objections that the respondent Trust is a religious Trust and is not an industry. A free dispensary with a single Doctor (Charitable) deployed on the basis of honorarium cannot be an industry. The petitioner was being paid honorarium and not salary of Rs. 1100/- to Rs. 2000/- per month from time to time. He was simultaneously rendering his service to another institute. There is no relationship of employee and employer and the petitioner is not a workman. On merit, the respondents has admitted that the petitioner was employed in December 1996 on a salary of Rs. 1100/- per month but denied that the salary was raised to Rs. 3600/- per month after 3 months. The petitioner has accepted the honorarium of Rs. 1100/- per month for his service which amount was paid to him from December 1996 to August 1998. His salary was enhanced to Rs. 2000/- per month alongwith traveling amount

of Rs. 500/- per month from Sep. 1998. The salary paid to him upto Feb. 1999 and Rs. 500/- was paid to compensate him for the expenses for visiting patients in the adjoining villages. This amount was discontinued when it has been reported that he was not visiting the villages regularly and he is working with another dispensary on regular basis without the knowledge of the respondent Trust. It has been denied that the salary of the other employees has been enhanced but alleged that the Doctor is rendering free service. The petitioner refused to draw the enhanced honorarium of Rs. 2000/- per month from Sep. 2003 and raised the matter with the Labour Inspector in December 2003 alleging the non payment of Rs. 3600/- per month. The petitioner was paid the amount of Rs. 14000/- from Sep. 2003 to March 2004 as full and final settlement which he accepted through Labour Inspector Solan. He was informed that the Trust is going to close the dispensary on 31.3.2004. The respondent has denied that the dispensary was opened or the petitioner was not permitted to enter. They have denied that the services of the petitioner has been terminated but alleged that the Trust is not an industry and there was no relationship of employee and employer existing between the parties. The provisions of retrenchment of the petitioner are not applicable to this case. They have denied the remaining allegations and prayed for the dismissal of the same.

4. The petitioner has filed the rejoinder wherein he controverted the stand taken by the respondent and reaffirms the contents of the claim and prayed for the relief.

5. On the basis of the pleadings of the parties the following issues were framed by this Court on 14.4.2007.

1. Whether the services of the petitioner has been terminated without complying with the provisions of Industrial Disputes Act, 1947? If so, its effect? *OPP.*

2. If issue No-1 is proved in affirmative to what relief the petitioner is entitled? *OPP.*

3. Whether the petition is not maintainable, as the petitioner is not our employee? *OPR.*

Relief.

6. Both the parties have lead their evidence to prove their case. I have heard the arguments on behalf of the petitioner and the respondent has filed the written arguments and also gone through the record. My findings on the aforesaid issues are as under:-

Issue No-1	Yes.
Issue No-2	Entitled for reinstatement with back wages w.e.f. 13.4.2004.
Issue No-3	No.
Relief.	Reference allowed as per operative part of the award.

REASON FOR FINDINGS*Issue No-1 &2*

7. Both these issues being interlinked and interconnected are taken up together for discussion and decision. In order to prove the case, the petitioner stepped into the witness box and stated that he was a qualified Homeopathic Doctor as per certificate Ex. PA. He has also taken the training from Government Hospital Kandaghat, as per certificate Ex. PB. He was working as helper in the dispensary of respondent with Dr. C.D Joshi from 1990 to 1996 as per certificate Ex. PC. At the time of his appointment his salary was fixed at Rs. 3600/- but he was paid only Rs. 1100/- . His salary was raised from Rs. 1100/- to Rs. 2500/- whereas the salary of other staff was raised from Rs. 3000/- to Rs. 3500/-. He made a representation to the Labour Officer to increase his salary. The representation is Ex. PG. Shri Ram Krishan who is one of the Trustee has requested to increase the salary of the petitioner but nothing has been done. Shri Hem Chand Sood Joint Secy. reduced his pay from Rs. 2500/- to Rs. 2000/- and he received the salary under protest. The disputed salary was deposited with the Labour Officer as per their letter Ex. PG. The respondent has told that they are going to close their dispensary and ask him to make arrangement somewhere. The respondent has not closed the dispensary and engaged three more persons i.e. Smt. Susheela Thakur, Smt. Surksha Sood but he do not remember the name of the 3rd person he might be Dr. R.K Sood. The petitioner was not permitted to enter the dispensary and thereafter he approached the Labour Inspector as per his application Ex. PK. The respondent has issued the experience certificate which is Ex. PL. No notice or compensation has been paid to him. He has completed more than 240 days in each year. His removal is illegal and he prayed for the relief. In cross-examination, he has stated that he was engaged through interview. He is not having any letter proving his salary. The pay of homeopathy Dr. may be Rs. 7000/- to 8000/- P.M. He has denied that he was working without any payment except honorarium of Rs. 1100/- P.M. No license for the practice of homeopathy Dr. is required. He has denied that he was working on part time basis or he was working somewhere else. He has denied that he asked the respondent to increase the salary or he would leave the job. The witness has denied that payment alongwith 7 days notice was filed before the Labour Officer. He has denied that he had given in writing that he will visit the patient outside Solan and also worked for 8 hours. He has denied that he is not entitled for any relief.

8. The respondent has also examined 3 RWs. RW-1 is Dr. R.K. Sood who has filed affidavit in support of his statement. In cross-examination, he has stated that he was not marking his presence in the Trust clinic. The witness has stated that he is working in the Trust since 1998. He know the petitioner who was assisting one Shri Shashtri in the clinic. Mr. Shashtri left the clinic 4-5 years back. The witness has stated that the homeopathy is the part of alternative medicine. Prior to 2003 -04 there was no record of treatment which he provided to the public. The Trust used to charge for the treatment provided by him and the record is with the Trust. He do not know that the employee of the Trust are getting salary or not. There are 4-5 employees in the Trust. He has no concern with the Trust and is not known how the employees are engaged. He is also not knowing whether they are getting salary or not. He was attending 30 to 50 patients per day and is being 84 assisted by Smt. Surksha Sood and Smt. Susheela Sood who are provided by the Trust. He do not know whether they are paid by the Trust or not.

9. RW-2 Shri Hem Chand Sood (Joint Secy.) this witness also tendered the affidavit in support the case of the respondent. In cross-examination, he has admitted that the petitioner might be working in the Trust since 1996 but no appointment letter was given to him. He was being paid Rs. 1100/- P.M and later on his salary was raised to Rs. 2000/-. He has admitted that the Dr. R.K Sood alongwith two lady helpers are working. He do not remember the qualification but both the ladies are posted in the Trust dispensary. These ladies were engaged about 6-7 years back since the opening of the dispensary and 6-7 persons were working in the Trust. He has denied that the

petitioner was engaged in 1996 and he told that his salary will be fixed at Rs. 3600/-. No increase in the salary is given unless the demand is raised. The witness has denied that they raised the salary of the employees upto 30% but the salary of the petitioner has been reduced from Rs. 2500/- to Rs. 2000/-. He has denied that the petitioner raised the demand that his salary has not been paid as promised. The witness has denied that the petitioner has been removed because he raised the demand. The dispensary has been closed and they served notice to the petitioner that his services are no more required. He has denied that the petitioner remained in the service of the Trust since 1996 to March 2004. The witness further stated that the petitioner was working in other Trust without their knowledge which came to his knowledge about 2-3 years back. He is having no letter proving that the petitioner was working in some other Trust. No compensation has been paid to the petitioner as he was not a regular employee of the Trust. The petitioner was engaged by Dr. Joshi who was working in the dispensary. The Trust was paying the money to the petitioner for his work. The yearly income of the Trust is about six lakhs. He was keeping the attendance register and salary register of the employee working in the Trust.

10. RW-3 is Balram Sethi who was the clerk in Janta Trust Solan, has stated that there was no record about the salary of the petitioner but the petitioner was engaged as per letter mark X. The petitioner was engaged in the clinic only for 2 hours. Earlier the working hours were 4.00 to 6.00 PM and the period has been changed only six months back from 2.00 P.M to 5.00 PM. He was having salary record of the petitioner from the date he was engaged. Duty time was allotted to the petitioner according to his convenience. In cross-examination, the petitioner was attending the patient in the dispensary and also giving the medicines. No complaint has been received against the petitioner about his working. No specific duty time was fixed. The petitioner was working on part time basis only for 2 hours.

11. From the scrutiny of the entire oral as well as documentary evidence it has been proved on record and even admitted by RW-1 Dr. R.K Sood that the petitioner was engaged in 1996 as Chakitsak (Homeopath) where he worked till April 2004. In reply, the respondent has alleged that the petitioner was not paid any salary but only the honorarium was being paid to him. The entire stand of the respondent demolished when RW_2 Shri Hem Chand Sood who is Joint Secy. of the Trust has stated that the Trust was paying the salary of Rs. 1100/- PM to the petitioner which was raised to Rs. 2000/- later on. In the entire cross examination, this witness nowhere stated that no salary was paid to the petitioner but only the honorarium was being paid. It has also been proved on record that the dispensary was closed by the Trust but later on they engaged two ladies worker alongwith Dr. R.K Sood as per his affidavit Ex. RA placed on the Court file. It has been admitted by RW-2 that two ladies Smt. Susheela and Surksha were engaged as helper with Dr. R.K Sood. This statement of the witnesses seems to be false as he has failed to produce any salary record or documentary evidence proving since when both these ladies were engaged by the respondent. RW-2 has stated that these ladies were engaged about 6-7 years back whereas the petitioner was engaged as per the statement of the witnesses in the year 1996 meaning thereby that the petitioner was senior to both the ladies. It is not clear why the services of the petitioner has been terminated and why the respondent Trust has engaged these two ladies alongwith Dr. R.K Sood. The engagement of these people by the Trust only proves the melafide attitude of the respondent towards the petitioner. In the reply, the respondent has stated that the Trust was paying Rs. 500/- in addition to attend the patient in the villages and they were paying Rs. 2000/- as honorarium to him this fact has not been proved orally or by producing the documentary evidence before this Court for the reasons best known to the respondent. The respondent Trust has withheld the relevant record and even the period since when both the ladies and Dr. R.K Sood is engaged and in such situation an adverse inference is required to be drawn against the respondent Trust. On the other hand the petitioner has proved that he was engaged by the respondent Trust on the payment of Rs. 3600/-

PM as salary but he was paid only Rs. 1100/- when he agitated, his salary was raised to Rs. 2500/- PM. Again respondent has reduced his salary to Rs. 2000/-. It is also been proved on record that the petitioner was not permitted to enter the dispensary on 12.7.2004. The respondent Trust could not justify the removal of the petitioner or the fresh appointment of Smt. Surksha and Susheela with Dr. R.K Sood. It has been proved on record that no notice or compensation has been paid to the petitioner, this fact has been admitted in cross-examination by RW-2 Shri Hem Chand Sood hence, there is clear-cut breach of mandatory provisions of section 25-F of the Industrial Disputes Act, 1947. In the written argument they have stated that the dispensary has already been closed since 31.3.2004 and at present they are running one free alternate dispensary. A new point has been alleged under para 2 of the written argument that the petitioner was rendering free service as helper from Jan. 1990 to 1996 and thereafter he was appointed on part time basis and honorarium between Rs. 1100/- to Rs. 2000/- has been fixed to be paid P.M. The entire argument is contrary to the affidavit produced by respondent. Further RW-2 Shri Hem Chand Sood who is Joint Secy. has stated that salary of the petitioner was fixed at Rs. 2000/- P.M he nowhere stated that the petitioner was being paid only honorarium. The law which the respondent has referred in the written argument stating that the Trust is not an industry is absolutely wrong and it seems that the entire judgment might have not been gone through by respondent. The entire controversy has been settled by our own High Court (H.P.) in CWP No. 270-294-319-330-363-388-295/98 titled as Jasbir Singh & 6 ors V/s State of H.P. & 6 Ors. Relevant para 10 is reproduced:-

“No doubt, these activities of the Trust pertaining to ‘Fooja and Archna’ in the temple of the Trust including material things or service geared to celestial bliss e.g. making, on a large scale ‘prasad’ or food exclusively for offering to the Deity are spiritual or religious and those employees who are engaged in these activities are not workman by definition and may not be governed by the provisions of the Act. The number of these employees must be nominal as compared to employees who are engaged in the production and/or distribution of goods and services calculated to satisfy human wants and wishes of devotees who visit the temple of the Trust. Therefore, by applying the dominant nature test as held in para 143 (a) of Bancolare Water Supply (supra) , the Trust is an Industry. It is not the case of the Trust that the petitioners were engaged for such activities which are purely spiritual or religious, for which it must be having regular staff. Therefore, in answer to the first question we hold that the Trust is an Industry and the petitioners being its daily wages workers are its workmen, who are governed by the provisions of Industrial Disputes Act. We need not refer to the authorities cited by the learned counsel for the parties where in the religious Trusts have been held either industry or not, as these are decided in the facts and circumstances on record of those cases.

12. In view of the above discussion, the petitioner has proved that he was engaged by the respondent in the year 1996 and his services were illegally terminated in April 2004 without any notice or compensation. The removal of the petitioner is illegal and in violation of section 25- F of the ID Act. Further the respondent has engaged 2 ladies with one Dr. R.K Sood after the removal of the petitioner which fact has been admitted by RW-2 Shri Hem Chand Sood Joint Secy. of the Trust hence, the removal of the petitioner is contrary to the provision contained under section 25-H of the Act. As the respondent Trust is involved in the public activities running Sarain, dispensaries and the activities come within the preview of industries. Further the income of the Trust is Rs. 7 lakhs per year as stated by RW-2 Shri Hem Chand Sood. The petitioner has proved that he was the employee of the respondent Trust but his services were illegally terminated and new persons Dr. R.K Sood and 2 ladies helper were engaged after the removal of the petitioner. The removal of the

petitioner is held illegal and is against the mandatory provisions of Industrial Disputes Act, 1947. Accordingly, both the issues are decided in favour of the petitioner and against the respondent.

Issue No-3.

13. Onus to prove issue No-3 was on the respondent but they have failed to show how the present reference is not maintainable. Accordingly issue No-3 is decided against the respondent.

In view of my findings on the aforesaid issues the present reference is allowed and the petitioner is held entitled for his reinstatement w.e.f. 13.4.2004 and back seniority and back wages @ of Rs. 3600/- PM w.e.f. 13.4.2004. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today on this 14th Day of November 2007.

(L.N SHARMA)

In the Court of L. N. Sharma, Presiding Judge, H.P. Industrial Tribunal-cum-Labour Court Shimla

Ref No:- 51 of 2002

Instituted on:- 16.2.2002

Decided on:- 17.11.2007

Pawan Kumar S/o Shri Chet Ram, Village Handa Mehta, P.O Dhakaryana, Tehsil Kasauli, Distt. Solan, HP. . .*Petitioner.*

Versus

The Divisional Manager, Himachal Pradesh Road Transport Corporation, Divisional Office, Parwanoo, Distt. Solan, HP. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner:- Shri J.C Bhardwaj, AR.

For respondent:- Ms Rita Thakur, Advocate.

AWARD

1. The following reference has been received for the adjudication by this Court from the appropriate government:-

“Whether the termination of the services of Shri Pawan Kumar S/o Shri Chet Ram we.f.28.3.2001 (A.M) by the Divisional Manager HRTC office Parwanoo,

Distt. Solan HP, without notice and compensation is proper and justified? If not, what salary, service benefits and compensation the above workman is entitled to?

2. The petitioner has filed the claim alleging that he was engaged by the respondent on 15.10.1998 and he served the respondent till 28.3.2001 when his services were illegally terminated. No notice or compensation has been paid to him. He prayed for his reinstatement with all benefits.

3. The respondent has filed the reply admitting that the petitioner was engaged on 15.10.1998 on fixed payment of Rs. 1000/- which was increased to Rs. 2000/- w.e.f. 1.9.2000. The petitioner was engaged only for 89 days from time to time and he was given fractional breaks. The petitioner was not engaged through selection procedure hence, he was dis-engaged rightly on 28.3.2001. The respondent has admitted that no notice or compensation has been paid to the petitioner. They prayed for the dismissal of the claim.

4. The petitioner has filed the rejoinder wherein he controverted the stand taken by the respondent and reaffirms the contents of the petition.

5. On the basis of the pleadings of the parties the following issues were framed on 3.3.2005.

1. Whether termination of services of the petitioner w.e.f. 28.3.2001 by the respondent without any notice and compensation is proper and justified? . . .*OPP.*
2. If issue No-1 is not proved to what relief of service benefits and compensation the petitioner is entitled to? . . .*OPP.*

RELIEF

6. Both the parties have lead their evidence in order to prove their case. I have heard the learned counsel for the parties and also gone through the record, my findings on the aforesaid issue are as under:

FINDINGS

Issue No: 1.	No.
Issue No.2.	Entitled for reinstatement.
Relief.	Reference allowed as per Operative part of award.

REASON FOR FINDINGS

Issue No: 1&2

7. Both these issues being interlinked and interconnected are taken up together for discussion and decision. To prove the case, petitioner stepped into the witness box and supported the entire contents of the petition. He has stated that he was engaged on 15.8.1998 where he worked till 29.3.2001. He has completed more than 240 days work during his service. No notice or compensation has been paid to him at the time of his termination. He prayed for the reinstatement with full back wages. In cross-examination, he has denied that he was engaged on 15.10.1998 but stated that he was engaged on 15.8.1998. The petitioner has denied that his appointment was only for 89 days and he was reengaged after giving him breaks. He was engaged directly and not

sponsored by any agency. The petitioner has denied that he was engaged on fixed salary. The witness has denied that there is no work available and that is why his services were removed. He has denied that he has not completed 240 days or is not entitled for any compensation.

8. The respondent has also examined one Shri Parkesh Sharma, Computer Operator HRTC, who has stated that the petitioner was engaged on 15.10.1998 on a fixed wages of Rs. 1000/- on the direction of HRTC Minister Shri Kishan Kapoor. The petitioner was on duty till 28.3.2001 and his wages were raised to Rs. 2000/- from 1.9.2000. The petitioner was engaged for days after giving him breaks he was again engaged. The petitioner is not entitled for any relief. In cross-examination, the witness has stated that there was no written direction from the Minister except the telephonic direction to engage the petitioner which information was sent to the MD HRTC as per letter Ex. R-X. They have not received the approval from authority despite their reminder and the petitioner was disengaged after receiving the final order. The petitioner was given information about one day break in service. No notice or compensation has been given to the petitioner. The petitioner was obedient and hard worker. He has denied that they have retrained other persons who were engaged on the telephonic direction of the Minister.

9. From the scrutiny of the entire oral as well documentary evidence, it is the admitted case of both the parties that the petitioner was engaged for 89 days w.e.f. 15.8.1998 but according to respondent he was engaged from 15.10.1998. It has also been admitted that the petitioner was disengaged on 28.3.2001 as per office order Ex. PA place on the Court file. The respondent corporation has failed to prove on which date the petitioner was engaged except the oral statement of RW-1 Shri Prakesh Sharma. The plea of the petitioner is that he has completed 240 days during his service but his services were terminated without giving him any notice or compensation as required under section 25-F of the Industrial Disputes Act, 1947. The respondent corporation also failed to place the mandays chart of the petitioner on record. However, the witness RW-1 has stated that they were giving him one day break after completion of 89 days and thereafter he was reengaged for another terms of 89 days. If the statement of this witness is taken into consideration, than the petitioner has proved that he worked for more than 28 months during his service under respondent. . It is the mandatory provision of law that a worker who has completed 240 days in calendar year cannot be removed from service without giving one month notice in writing indicating the reason for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice. The respondent has failed to comply with the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947. The entire controversy has been settled as per law laid down by our **Hon'ble High Court reported in 2007 LLR page 1155 titled as Manoj Kumar Sharma V/s H.R.T.C & Anr.** Relevant para 18 is reproduced:-

“ In the present case also the petitioner was initially appointed for 89 days and after giving him fictional break, reappointed for another 89 days followed by one year appointment. This fact has been adopted by the management of respondent corporation to defeat the provisions of section 25-F of the Industrial Disputes Act, 1947. The letter dated 29.3.2001 issued by the managing Director of the corporation respondent amounts to unfair labour practice.

10. The respondent corporation has admitted that no notice or compensation has been paid to the petitioner. According to the respondent the petitioner was not entitled for any notice or compensation but as per mandays chart Ex. RW-1/A it has been proved and even admitted by respondent that the petitioner was given these appointments for 89 days each and if total period of appointment is taken into consideration than the petitioner became in the entitled protection of section 25-F of the ID Act, 1947. Accordingly both the issues are decided in favour of the petitioner and against the respondent.

In view of my findings on the aforesaid issues the petitioner is held entitled for his reinstatement but he is not entitled for seniority and back wages. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today on this 17th Day of November 2007.

(L.N SHARMA)

**In the Court of L. N. Sharma, Presiding Judge, H.P. Industrial Tribunal-cum-Labour
Court Shimla**

Ref No:- 229 of 2002

Instituted on:- 12.8.2002

Decided on:- 26.11.2007

Kailash Chand Gupta S/o Shri Dina Nath through J.C Bhardwaj, President H.P.A.I.T.U.C,
H. Q Saproon Solan (HP). ..Petitioner.

Versus

M/s Birla Textiles Mills, Sai Road Baddi District Solan HP, through its factory manager.
..Respondent.

Reference under section 10 of the Industrial Disputes Act, 1947

For petitioner:- Shri J.C Bhardwaj, AR.

For respondent:- Shri Jagdish Thakur, Advocate.

AWARD

1. The following reference has been received for the adjudication by this Court from the appropriate government:-

“Whether the termination of the services of Shri Kailash Chand Gupta S/o Shri Dina Nath through J.C Bhardwaj, President H.P.A.I.T.U.C, H. Q Saproon Solan (HP) w.e.f. 3.7.2000 by M/s Birla Textiles Mills Sai Road Baddi on completion of more than 240 days continuous service and without giving any notice, charge sheet and without complying section 25-N of the Industrial Disputes Act, 1947 is proper and justified? If not what relief of service benefits the above workman is entitled to? ”

2. Whether the workman has abandoned the job at his own, as alleged by the management? If so, what its effect?”

2. The petitioner has filed the claim wherein he has alleged that he was appointed at Dehli on 1.8.1964 as Clerk and thereafter the petitioner has been transferred to Baddi on 9.4.1999. The petitioner has completed more than 240 days in each calendar year during his tenure. The petitioner was not provided any work on 3.7.2000. The petitioner fell ill on 2.5.2000 and he was under treatment at Rural Hospital Nalagrah. He informed the respondent company telegraphically

and also submitted his leave application. The petitioner thereafter remained under treatment at Hindu Rao Hospital Dehli and was informing his superiors from time to time. The petitioner was advised to contact Dr. V.K Aggarwal for his further treatment where he was declared fit on 2.7.2000. The petitioner had come to Baddi on 3.7.2000 but he was not provided any work. The petitioner entered in factory premises but he was marked absent. He met the factory manager, store manager and other officers who told him that his services stand terminated. The petitioner was forced to leave the factory. The action of the respondent management is contrary to the mandatory provisions of Industrial Disputes Act, as no notice or compensation has been paid to him and the petitioner prayed for the relief.

3. The respondent management has filed the detailed reply stating that the petitioner obtained 10 days leave from 2.5.2000 to 11.5.2000 and thereafter he was extending the leave till 1.7.2000. The petitioner never reported for duties and remained absent unauthorizedly. The respondent company has advised the petitioner to report for duty within 3 days as per letter sent through Register AD. The petitioner has not reported for duties but the company received the notice from Conciliation Officer Solan. The company informed the conciliation officer vide letter dated 19.8.2000 that the demand notice raised by the petitioner has not been received. The respondent company asked the petitioner to report for duties but he did not join his duties. The petitioner left the job himself and there is no question of removal or retrenchment. The company has admitted that he was appointed as clerk but denied that he was not provided any work on 3.7.2000. They have also denied that the petitioner met S/Shri K.N Singh, Arun Sharma, S.S Saxena & H.C Maheshwari who have told that his services were terminated. They have denied the remaining contents of the claim and prayed for the dismissal of the reference.

4. The petitioner has filed the rejoinder wherein he controverted the stand taken by the respondent and reaffirms the contents of the petition and prayed for the relief.

5. On the basis of the pleadings, the following issues were framed by this Court on 4.8.2004.

1. Whether the termination of services of petitioner by respondent w.e.f. 3.7.2000 without any notice, charge sheet and without complying with the provisions of section 25-N of ID Act, 1947 is proper and justified? ..*OPP.*
2. If issue No-1 is not proved to what relief of service benefits the petitioner is entitled to? ..*OPP.*
3. Whether the workman had abandoned the job at his own? ..*OPR.*
4. Whether the petitioner is in gainful employment, as alleged? ..*OPR.*
5. Relief.

6. Both the parties have lead their evidence in order to prove their case. I have heard the learned counsel for the parties and also gone through the record, my findings on the aforesaid issue are as under:

FINDINGS

Issue No: 1.	Not proved.
Issue No.2.	Not entitled for any relief except retirement benefits.
Issue No-3.	Not proved.
Issue No-4	No.
Relief.	Reference dismissed.

REASON FOR FINDINGS*Issue No. 1&2*

7. Both these issues being interlinked and interconnected are taken up together for discussion and decision. To prove the case, petitioner stepped into the witness box and supported the entire contents of the petition. He also tendered in evidence copy of treatment certificate Ex. PW-1/A, leave application Ex. PW-1/B photocopies of treatment slip Ex. PW-1/C and Ex. PW-1/D. The petitioner remained under treatment of Dr. Sukhwani as per treatment chart Ex. PW-1/E. The petitioner again informed the respondent company telegraphically vide Ex. PW-1/F. He remained under treatment at Sant Parma Nand Hospital Dehli as per OPD slip Ex. PW-1/H. The petitioner admitted that he received letter from respondent company which is Ex. PW-1/J and his reply is Ex. PW-1/K fitness certificate is Ex. PW-1/L. He reported for duties on 3.7.2000 and signed the attendance register where he was shown absent from duty. He met the factory manager but he was told that new person has already been engaged in his place. He also met Shri H.C Maheshwari Vice President who told him that his services has already been terminated w.e.f. 3.7.2000. Thereafter, he raised Industrial Dispute and prayed for the relief. In cross examination, the witness has admitted that he has not received any termination letter. There were 25 workers working in the time office and 1800-1900 workers are in the factory. The original certificate Ex. PW-1/M is with him. He has denied that the official asked him to submit fitness certificate issued by Doctor and only thereafter he will be permitted to join the duties. He has denied that no fitness certificate has been produced by him, as no certificate issued by the Doctor. He has denied that he subsequently obtained the fitness certificate but alleged that his fitness certificate was thrown by Shri K.N Singh. This fact has not been stated by him in his demand notice. He has not visited the factory after raising the demand notice. He has not lodged any complaint that his fitness certificate has not been accepted. He has denied that due to serious ailment the medical officer refused to give him fitness certificate. The witness has denied that the management asked him to join the duties during conciliation. He is prepared to join the duties if back wages are paid to him. He has denied that his services were never terminated and he never reported for duties.

8. The respondent company also examined on Shri A.K Sinah Senior Manager (Personal) who has stated that the services of the petitioner were never retrenched or terminated. The petitioner remained on leave from 2.5.2000 to 10.7.2000 but he never submitted his fitness certificate. No medical certificate has been furnished by the petitioner. The petitioner raised the demand notice and they submitted their comments which are Ex. RW-1/A. They asked the petitioner to submit his fitness certificate but he failed to do so. The company is ready to take back the petitioner if he furnishes his medical certificate. In cross examination, the witness has stated that the petitioner never reported for duties after availing leave. He has denied that the petitioner came to him on 3.7.2000. He has denied that the petitioner was removed from service but they received the demand notice. They have sent a letter to the petitioner to report for duties on 17.8.2000 but he remained absent. The witness has stated that he has not brought the attendance

register as the same was not required. He has denied that the petitioner had given the fitness certificate in presence of labour officer. They are having certified standing orders in the company, habitual absence of the employee is misconduct, as per standing orders. No show cause notice has been given to the petitioner. No enquiry has been conducted against him up till today. They have written in the reply that the petitioner has not reported for his duties and it is presumed that he abandoned the job.

9. Both the parties have filed the written arguments. From the perusal of the oral entire as well as documentary evidence, the only case of the petitioner is that the remained under treatment in Public Health Centre at Nalagrah and thereafter Sant Parmanand Hospital Dehli. The petitioner has miserably failed to prove his illness as no Doctor from concerned hospital summoned to prove the treatment or the ailment with which the petitioner was suffering. Simply by tendering photocopies of the documents which are exhibited are of no help to the petitioner as these documents have not been proved in accordance with law and no benefits on the basis of such document can be extended to the petitioner. Further, the petitioner has tendered the photocopy of the fitness certificate Ex. PW-1/M but again this certificate has not been proved. The petitioner has also failed to produce the original documents in this Court despite the fact that he admitted in his cross examination that the original documents are with him. The petitioner has alleged that after his fitness, he came to Baddi for joining his duties on 3.7.2000 but he was not permitted. He has further alleged that he approached the factory manager including vice president of the company who told that a new person has been engaged in his place and he cannot be allowed to resume back on his duties. The petitioner himself has admitted that there are 1800-1900 workers in the respondent company but unfortunately he has failed to produce even a single person to support his case. The petitioner even failed to summon his co-worker to prove that he was ill and was under treatment at Public Health Centre Nalagrah and Dehli and because of this reason he could not report for duties. The petitioner has not applied for any leave. He immediately came to Baddi on 3.7.2000 and raised demand notice on 5.7.2000 within two days of his arrival at Baddi. In his demand notice he has alleged that his services were illegally retrenched without any cogent reason and without serving any show cause notice. The demand notice is Ex. PW-1/D which is admitted by respondent company and they have also stated that they replied the notice. There is nothing on record to prove that the services of the petitioner has been terminated by the respondent company without any notice or compensation whereas the respondent company has specifically stated that they asked the petitioner to submit the fitness certificate and report for duties. This offer they also gave during conciliation proceeding but the petitioner failed to furnish the fitness certificate or resume the duties. The petitioner in his written arguments relied upon **2001 LLR page 54 titled M/s Scooter India Ltd. V.s Mohmmmed Yaqub, 1993 LLR SCC page 584 titled as D.K Yadav V/s M/s J.M.A Industries Ltd., 2002 (III) LLJ page 516 titled as Lakshmi Precision Screws Ltd. V/s Ram Bhagat.** The law laid down by their lordship is of no help to the petitioner as he has failed to prove his termination by the respondent company. Unless the termination is not proved the petitioner cannot avail the benefits of law. As the petitioner has not proved that his services were illegally terminated by the respondent company he is not entitled for any relief except retirement benefits.

Accordingly issue No-1 &2 are decided against the petitioner

Issue No-3&4:

10. Both these issues being interlinked and interconnected are taken up together for discussion and decision. The onus to prove, both the issues were on the respondent but the respondent company has failed to prove that the workman has abandoned the job or he is gainfully employed anywhere. It has been proved on record that the petitioner remained on leave from

2.5.2000 to 10.7.2000 and thereafter he never reported for duties but this does not mean that the petitioner has abandoned the job however he is not entitled for any benefits for the period he remained absent. Accordingly both the issues are replied.

In view of my findings on the aforesaid issues there is no merit in the present reference the same is accordingly dismissed. However, the petitioner is entitled for the retirement benefits as per law. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today on this 26th Day of November 2007.

(L.N SHARMA)

In the Court of L.N Sharma, Presiding Judge, H.P. Industrial tribunal-cum- Labour Court, Shimla

Ref No. 163 of 2002.

Instituted on. 29.5.2002

Decided on. 17.11.2007.

Pritam Singh S/o Shri Sohan Singh Village Kot, P.O. Anjhi Brachamna, Tehsil kandaghat Distt. Solan, HP. *. .Petitioner.*

Versus

Divisional Manager, Himachal Pradesh Road Transport Corporation, Divisional Workshop Tara Devi, Shimla. *. .Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner:- Shri J.C Bhardwaj, AR.

For respondent:- Shri Vivek Negi, Advocate.

AWARD

1. The following reference has been received for the adjudication by this Court from the appropriate government:-

“क्या श्री प्रीतम सिंह सुपुत्रा श्री सोहन सिंह, कामगार को मण्डलीय प्रबन्धक हिमाचल प्रदेश पथ परिवहन निगम मण्डलीय वर्कशाप तारादेवी शिमला, जिला शिमला द्वारा दिनांक 27.11.1998 के पश्चात औद्योगिकी विवाद अधिनियम 1947 की धारा 25.एफ एवं 25.एन की अनुपालना किए बिना नौकरी से छंटनी किए जाना उचित एवं न्याय संगत है ? अगर नहीं तो श्री प्रीतम सिंह सुपुत्रा श्री सोहन सिंह कामगार किस वेतन, वरिष्ठता एवं सेवा लाभ एवं राहत का पात्रा है?”

2. The petitioner has filed the claim wherein he has alleged that he was employed in the month of March 1998 and he served with the respondent corporation till 23.8.1999. His services

were illegally terminated without any notice of compensation. He was assigned the duties of Helper with the cook in H.R.T.C Rest House Tara Devi. The petitioner has worked for more than 240 days and his termination without notice or compensation is illegal. He is entitled for his full wages and other benefits.

3. The respondent has filed the detailed reply alleging that the petitioner was engaged as part time worker from 1.3.1998 to 28.5.1998 for 89 days. He was again reengaged on 30.5.1998 to 27.1.1998 for 89 days, 27.8.1998 to 27.11.1998, 28.11.1998 to 24.2.1999, 26.2.1999 to 25.5.1999 and 27.5.1999 to 23.8.1999. The petitioner was dis-engaged as there was no work. The respondent also alleged that the petitioner cannot be termed continued in the service for the purpose of Industrial Disputes Act, as he was only engaged for 89 days. They have denied the remaining contents of the petition and stated that the petitioner never completed 240 days in the job and they prayed for the dismissal of the petition.

4. The petitioner has filed the rejoinder wherein he controverted the stand taken by the respondent and reaffirms the contents of the petition.

5. On the basis of the pleadings of the parties the following issues were framed on 15.9.2003 and 2.3.2007.

1. Whether termination of services of the petitioner by the respondent w.e.f. 27.11.1998/10.11.1998 is violative of section 25-F /25-N of the Industrial Disputes Act, 1947? . . .*OPP.*
2. If issue No-1 is not proved in affirmative to what relief the petitioner is entitled to? . . .*OPP.*

Relief.

6. Both the parties have lead their evidence in order to prove their case. I have heard the learned counsel for the parties and also gone through the record, my findings on the aforesaid issue are as under:

FINDINGS

Issue No: 1.	Yes.
Issue No.2.	Entitled for reinstatement.
Relief.	Reference allowed as per Operative part of award.

REASON FOR FINDINGS

Issue No: 1&2:

7. Both these issues being interlinked and interconnected are taken up together for discussion and decision. To prove the case, petitioner stepped into the witness box and supported the entire contents of the petition. The petitioner has stated that he was engaged in March 1998 and he continued till 23.8.1999. His services were terminated without any notice or compensation. No enquiry or charge sheet was ever served to him. He raised the demand as per copy Ex. PW-1/A. In cross-examination the petitioner has admitted that he had not applied for regular appointment in the

Guest House Tara Devi, HRTC. He is matriculate but denied that he was appointed for 89 days after giving 2-3 days break he was again reengaged. Two other persons were working with him in the Guest House. He has denied that he was engaged on part time basis. He has admitted his application dated 24.2.1998 copy of which is Ex. RA. The witness has denied that he had not worked for 240 days in any calendar year. He has denied that he was applying for 89 days job afresh.

8. The respondent has also examined one Shri Chint Ram Sr. Assistant who has stated that he was authorized to make the statement as per letter Ex. RW-1/A. The petitioner was employed as casual worker to assist the Cook in the Rest House at Tara Devi. The petitioner has not completed 240 days in any calendar year as per mandays chart Ex. RW-1/B. The petitioner was engaged to help the workers of the Rest House on part time basis. The financial health of the respondent corporation is not good. No notice or compensation has been paid to the petitioner. In cross-examination, the witness has admitted that Tara Devi Rest House is still in function and staff/officers of the HRTC use to stay in the Rest House. The petitioner use to assist the Cook in his work. He is not knowing that the petitioner was working as Waiter and performed other job also. The working day of the petitioner shown in the reply are correct. The petitioner has completed more than 300 working days in 12 calendar months. No notice has been served on the petitioner before his termination. Ex. RW-1/B has been prepared as per record. No compensation was paid to the petitioner as he was part time worker and not entitled for any compensation.

9. From the scrutiny of the entire oral as well documentary evidence, it is the admitted case of both the parties that the petitioner was engaged on 1.3.1998 for 89 days and the petitioner continued in the department till 23.8.1999. All the appointments were for 89 days and if this time taken into consideration than the total working days comes to 454 days. It is the mandatory provision of law that a worker who has completed 240 days in calendar year cannot be removed from service without giving one month notice in writing indicating the reason for retrenchment and the period of notice has expired, or the workmen has been paid in lieu of such notice, wages for the period of the notice. The respondent has failed to comply with the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947. The entire controversy has been settled as per law laid down by our **Hon'ble High Court reported in 2007 LLR page 1155 titled as Manoj Kumar Sharma V/s H.R.T.C & Anr.** Relevant para 18 is reproduced:-

“ In the present case also the petitioner was initially appointed for 89 days and after giving him fictional break, reappointed for another 89 days followed by one year appointment. This fact has been adopted by the management of respondent corporation to defeat the provisions of section 25-F of the Industrial Disputes Act, 1947. The letter dated 29.3.2001 issued by the managing Director of the corporation respondent amounts to unfair labour practice.

10. The respondent corporation has admitted that no notice or compensation has been paid to the petitioner. According to the respondent the petitioner was not entitled for any notice or compensation but as per mandays chart Ex. RW-1/A it has been proved and even admitted by respondent that the petitioner was given these appointments for 89 days each and if total period of appointment is taken into consideration than the petitioner became entitled for the protection of section 25-F of the ID Act, 1947. Accordingly both the issues are decided in favour of the petitioner and against the respondent.]

In view of my findings on the aforesaid issues the petitioner is held entitled for his reinstatement but he is not entitled for seniority and back wages. Let a copy of this award be sent to

the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today on this 17th Day of November 2007.

(L.N SHARMA)

In the Court of L.N Sharma, Presiding Judge, H.P. Industrial Tribunal-cum-Labour Court, Shimla

Ref No- 135 of 2001.

Instituted on- 23.6.2001.

Decided on. 7.11.2007.

Sunil Dutt Bakshi S/o Shri Balwant Rai Bakshi, R/o House No- E 52 Aruna Nagar, Civil Lines, Delhi 54. Through J.C Bhardwaj, President H.P. A.I.T.U.C, H.Q Saproon, Solan (Himachal Pradesh) . .*Petitioner.*

Versus

M/s Dabar India Ltd. Baddi, District Solan (H.P) through its Managing Director. . .*Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner:- Shri Amit Vaid, Advocate.

For respondent:- Shri R.P Bedi, Advocate.

AWARD

1. The following reference has been received for adjudication by this Court from the appropriate government:-

1. “ Whether Shri Sunil Dutt Bakshi S/o Shri Balwant Rai Bakshi, through J.C Bhardwaj, Gen. Secretary H.P. A.I.T.U.C, H.Q Saproon, Solan (H.P) while drawing salary of Rs. 9576/- per month as Store Supervisor falls under the definition of workman as defined in section 2 (s) of the Industrial Disputes Act, 1947?
2. “Whether the termination of service of workman by M/s Dabour India Ltd, Baddi as per clause 5 and 6 of the appointment letter, dated 23.10.96 is proper and justified. If not, what relief Shri Sunil Dutt Bakshi is entitled for?”

2. The petitioner has filed the claim alleging that he was appointed as Store Supervisor at Baddi. Earlier the petitioner was appointed by the Sister Concern of the respondent company at Sahibabad during July 1991. He was again appointed as Store Keeper in the company on 23.10.1996, from where he was transferred to Baddi on 7.5.1997. The petitioner remained in the employment of the company till 4th July 1998 when his services were terminated on the plea of

inefficiency during the period of probation. The petitioner has worked for more than 240 days in each calendar year. The petitioner was appointed as workman though designated as Store Supervisor vide letter dated 23.10.1996. The petitioner was never vested with the administrative and financial powers. The said functions of Supervisor were being handled by his superiors. The designation of the supervisor was only conferred to the petitioner to oust him from service. The job assigned to the petitioner was not in accordance with the letter and he was given certain functions of supervisor under para as per detail given 2 (a), (e) of the petition. The petitioner was illegally removed from service and he was compelled to submit his resignation which he refused to tender in spite of his manhandling by the officer of the management. He reported the matter to the Police. The removal of the petitioner is illegal and without compliance of section 25-N of the Industrial Disputes Act, 1947 as no notice or 3 months pay in lieu of wages has been paid to him. The petitioner prayed for reinstatement and all other benefits alongwith seniority.

3. The respondent company has filed the detailed reply taking preliminary objections that the petitioner is not a workman within the scope of the section (2(S) of the Industrial Disputes Act, 1947 as he was working as Store Supervisor and his annual salary was Rs. 1,25,492/-. The reference is bad in law and without jurisdiction. On merit, the respondent company has admitted that he was appointed as Store Supervisor on 8.11.1996 and his last drawn salary was Rs. 9576/P.M. The petitioner was transferred to Baddi on 7.5.1997. The respondent company has nothing to do with Precise Laboratory Ltd. which is an independent legal entity. The management of both the companies is separate and independent. The claimant has not paid Rs. 3149.50 of the respondent company at the time of his relieving. The petitioner belongs to Delhi and his family also resides there. The petitioner was reluctant to serve at Baddi and all the time he was trying to shift back to Delhi. The petitioner also made false allegation that he was ill treated at Baddi and also reported a false case to the Police without any merit. The petitioner was trying to harass and exploit the respondent company by dragging it in a false allegation. The petitioner was relieved from service as per terms and conditions. There was no reason to ask him to resign. The petitioner was not a workman hence, the provisions of retrenchment as per Industrial Disputes Act, 1947 are not applicable. The petitioner was working as Store Supervisor hence, the claimant does not come within the terms of workman under section 2 (s) of the Industrial Disputes Act, 1947. They have denied the remaining contest of the claim but admitted that he was appointed on temporary basis and given the opportunity to improve his performance by giving two extensions but when the petitioner failed to improve, he was relieved from service. They prayed for the dismissal of the claim.

4. The petitioner has filed the re-joinder wherein he controverted the stand taken by the respondent and reaffirmed the contents of the claim and prayed for the relief.

5. On the basis of pleadings of the parties, the following issues were framed by this Court on 4.3.2001.

1. Whether the petitioner falls within the definition of workman under section 2 (s) of the I.D Act, 1947? . . .OPP.
2. Whether termination of services of the petitioner by the respondent is illegal and unjustified, as alleged? . . .OPP.
3. Whether the reference is not maintainable as alleged? . . .OPR.

Relief.

6. Both the parties have lead their evidence in order to prove their case. I have heard the learned counsel for the parties and also gone through the record, my findings on the aforesaid issue are as under:

FINDINGS

Issue No: 1.	No.
Issue No.2.	No.
Issue No-3.	No.
Relief.	Reference dismissed.

REASON FOR FINDINGS

Issue No-1

7. In order to prove the case, petitioner stepped into the witness box and he supported the entire contents of the petition. The petitioner has stated that he was appointed as Store Supervisor and later on he was transferred to Baddi in May 1997. He was performing clerical duties to receive the material and making the entries in the relevant record. No workman was under him. His services were illegally terminated by the respondent company. He was illegally confined on 4.5.1998 in the room by Personal Manager Shri S.R Saini and Mr. Thakur Singh and letter Ex. PW-1/A dated 7.5.1998 was served upon him. He has not received any letter. He was also given physical beating for which he reported the matter to the Police as per F.I.R. Ex. PW-1/B. He submitted his representation Ex. PW-1/C to the company. He was medically examined at Nalagrah Hospital. He received letter dated 11.7.1998 and 23.7.1998 which is Ex. PW-1/D and envelop is Ex. PW-1/E. He has not received the documents mentioned in the letter. No notice or compensation has been paid to him before his removal. No show cause notice or charge sheet was served or enquiry was held against him. In cross-examination, he has admitted the appointment letter Ex. RA and his salary Rs. 9576/- P.M. He also admitted his signatures on Ex. RB/1 to Ex. RB/4 and Ex. RC/1 to Ex. RC/2 but clarified that he was not the in-charge of the section. He has admitted that there was Ayurvedic store, Engineering store, Package store and Dispatch but denied that these stores were under him. He do not remember whether 15 to 20 workers were working under him in these stores. There was Assistant Store Keeper but he do not remember his name. He has admitted that he was giving instruction to the subordinates. Before joining the company he was working at Delhi in Excises Department of Delhi Administration. He has admitted that scooter loan was given to him. He belongs to Delhi and his parents and children also residing there. He has admitted that he requested the management to transfer him to Gaziabad but denied that he was not interested to serve at Baddi due to family circumstances. He do not know about the fate of the F.I.R, he lodged against the officers of the company. The petitioner also admitted that he served one notice claiming Rs. 1,55,500/- damages on account of medical expenses. The petitioner has admitted that he never remained unemployed since May 1991 and he worked for 4 different organizations. The petitioner in the end stated that he do not want to work at Baddi.

8. The respondent company also examined one Shri S.R Saini who tendered his affidavit Ex. DA alongwith documents, Ex. D-1 to Ex. D-5. In cross-examination, the witness has stated that he do not know whether the petitioner was transferred with fresh appointment to the respondent company or he has given the service benefits. Adverse remarks of the official have intimated vide Ex. D-4 and Ex. D-5 to the petitioner. The petitioner was appointed on temporary basis. He has denied that the petitioner was doing the manual work or he was not temporary employee. Seven persons as per list Ex. DX were working under him. He has denied that the termination letter has been given in the back date. The relieving letter Ex. RD was given to the petitioner personally but

he refused to accept the same. He has denied that the petitioner was compelled to receive the relieving letter in the back date or the petitioner was given physical beating by locking him inside the room. He do not know whether any F.I.R has been registered by the petitioner against the company.

9. From the scrutiny of the oral as well as documentary evidence, the main controversy in the present reference is whether the petitioner is a workman or not. In order to prove the case, the petitioner has stated that he was doing clerical work and was having no control on the other workmen but the respondent on the other hand stated that as per terms and conditions of the appointment letter Ex. RA, it has specifically been mentioned that the petitioner was appointed as Store Supervisor and he was also controlling the entire section. The respondent has brought on record the leave applications of the staff Ex. RB/1 to Ex. RB/4. All these applications of the subordinate staff have been recommended by the petitioner. The petitioner also recommended the over time of the staff working under him. Copy of which are Ex. RC/1 and RC/2. The respondent has filed the list of workers working under the petitioner which is Ex. DX placed on the Court file. The petitioner was drawing Rs. 9576/- P.M his salary as mentioned under para 1 of the reply filed by the respondent company, which is also accepted by petitioner in the rejoinder. The learned counsel for the respondent company has strongly argued that the petitioner being a Supervisor and drawing more than Rs. 9000/- P.M does not come within the ambit of section 2 (s) (iv) of the Industrial disputes Act 1947. The relevant provision is reproduced as under:-

“who being employed in a supervisor capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of duties attached to the office or by reasons of the power vested in him, functions mainly of a managerial nature.”

From the bear reading of section 2 s(iv) it has very specifically mentioned that a person working in a supervisor capacity is not a workman. The respondent company has proved that the petitioner was originally appointed as Store Supervisor having the control on the entire section and the petitioner was also recommending the leave and also approving the over time allowances of the workers as per documents Ex. RB/1 to Ex. RB/4 and Ex. RC/1 and Ex. RC/2. The learned counsel for the respondent has argued that the present reference is only maintainable, if the respondent company accepts the petitioner as their workman, which is denied by the respondent company. According to them the petitioner was not a workman but he was the officer of the company and was working in a Supervisor capacity hence, the present reference is not maintainable unless, the petitioner himself proved that he was the workman of the company. He placed reliance on **1976 LAB. I.C. Page 202 (Calcutta High Court) titled as Swapan Dass Gupta and others V/s The First Labour Court of West Bangal and others.**

10. The learned counsel for the respondent also argued that a Supervisor mean a person having the capacity of supervising the subordinate including assigning work and recommended leave etc. He placed reliance on **2007 LLR page 62 (Delhi High Court) titled Bennett Coleman & Co. Litimited (M/s) V/s Shri Yadeshwar Kumar. Relevant para 11 is reproduced:—**

“Obviously, the approach of the Labour Court has been contrary to the law laid down by the Supreme Court in a series of judgments. In order to decided whether a person is a workman or not, the dominant and main function are to be considered. A person can be called a Supervisor if he is entrusted with the job of supervising other workman who were under him. There is no dispute that the respondent was not only designated as Night Supervisor but he was having job of supervision over security guards, Chowkidars and Sweepers. He use to forward over time claims of the person working

under him after verifying the same. He use to recommend leave of the persons working under him. He was incharge of the security of the property of petitioner and use to supervise the work of security guards etc. It is not necessary that a Supervisor has to be to cadre management person. A supervisor may occupy a lower position in the organization chart of the company where in the descending order may be CMD, MD, General Managers, Deputy Managers, Managers, Administrative Officers and Supervisor etc. It has been laid down by the Supreme Court that in order to be a workman a person must be performing one of the functions has specified in section 2 (s) of the Act, and it was not sufficient that he was not performing administrative and managerial function. Tribunal also went in wrong in law by observing that strict principles of rules of evidence are required to be followed by the tribunal. While weighing the material placed before the tribunal, a Tribunal is not to follow the strict rules of evidence and neither has to arrive at a conclusion by considering the proof beyond responsible doubt. A tribunal has to weigh the material placed before it by both sides. All materials which are logically probative for a prudent mind are liable to be considered. There is no allergy to hearsay evidence provided it has responsible nexus and credibility.

11. The learned counsel for the respondent further argued that it is sufficient to prove that the petitioner was working in a Supervisor capacity though drawing a sum of Rs. 9676/- P.M. and was not the workman under section 2(s) of the Industrial disputes Act, 1947. he placed reliance on 1995 LLJ III page 120 Bombay titled as Arvind Manikchand Doshi V/s S.V Kotnis, Member Industrial Court, Kolhapur & Ors. Relevant para 3 of reproduced:-

"Not before the industrial court but before the labour court it was urged on behalf of the respondent No-2 & 3 that the petitioner was not a workman within the meaning of section 2 (s) of the Industrial Dispute Act, 1947. In order to prove that point respondent No-2 & 3 submitted in the labour court that the petitioner was drawing monthly wages of Rs. 889/- and that he was working in the Supervisory and managerial capacity which fact was not controverted by and on behalf of the petitioner. In addition, respondent No-2 & 3 also relied upon documentary evidence inasmuch as they produce in the labour court an application for leave of one R. B Kate on which there was an endorsement which shows that the petitioner had recommended leave for the said Kate which also clearly proves that the petitioner was working in a Supervisory and Managerial capacity and was not merely a clerk. The labour court was, therefore, justified in coming to a conclusion that the petitioner was not a workman within the meaning of section 2 (s) of the Industrial Dispute Act, and was, therefore, not governed by the provisions of Industrial Disputes Act. "

12. The learned counsel for the petitioner on the other hand argued that the petitioner was having no Supervisor capacity or he was not assigning the work to subordinate and in such situation the petitioner cannot be debarred from claiming the status of a workman. Unfortunately, the petitioner only appeared in the witness box and tried to prove that he was a workman and was having no authority to supervise or control on subordinates. The petitioner failed to produce any employee of the company to support his contention. The petitioner has admitted his signatures on all the documents i.e. Ex. RB/1 to Ex. RB/4, Ex. RC/1 and Ex. RC/2 whereby he has recommended the leave of the subordinate staff and also recommend the payment of over time. Further, the petitioner tried to prove that he has been illegally terminated from service on the basis of false appraisal report Ex. D-2 and Ex. D-3 which was fabricated later on. The petitioner has failed to produce any oral as well as documentary evidence proving that he was having no supervisory capacity or control over subordinate. As the petitioner failed to prove that he was a workman of the

respondent company whereas the respondent company has proved that the petitioner was working in the Supervisor capacity, and he was having authority to recommend the leave and also approved the over time of the subordinate staff. Accordingly Issue No-1 is replied against the petitioner.

Issue No.2:

13. The plea of the petitioner is that his services were illegally terminated as per clause 5 and 6 of his appointment letter dated 23.10.1998. The petitioner has himself admitted that he was appointed vide appointment letter Ex. RA as Store Supervisor. As per clause 5 of the appointment letter the petitioner was engaged on temporary basis for one year and it has been mentioned that if the service is found to be satisfactory than his case will be reviewed for confirmation on the expiry of the aforesaid period of temporary employment. Under clause 6 of the same appointment letter it has been mentioned that if the service and conduct of the petitioner is not found to be satisfactory during the period of temporary employment his services will be terminated without any notice or assigning any reason. It has been proved on record that the work of the petitioner was not up to the mark as per appraisal report Ex. D-2 and Ex. D-3 placed on the Court file.

14. It is now well settled that the workman who is appointed on probation and ad-hoc basis for specific period have no right to continue in the post. The termination of the employee appointed on ad-hoc basis or for a specific period, his termination will be excluded as per the provisions of section 2 (oo), (bb) of the Industrial Disputes Act, 1947 and he is not entitled for any retrenchment compensation even he has completed 240 days in the preceding 12 calendar months as per law laid down by their lordship of **Hon'ble Supreme Court reported in 2006 LLR page 1233 titled as Vidya Vardhaka Sangha and another V/s Y.D Deshpande and others.** Relevant para 2 is reproduced:-

“It is now well settled principle of law that the appointment made on probation/ ad-hoc basis for a specific period of time comes an end by efflux of time and the person holding such post can have no right to continue on the post. In the instance case as noticed above, the respective respondents have accepted the appointment including the terms and conditions stipulated in the appointment orders and joined the post in question and continued on the said post for some year. The respondents having accepted the terms and conditions stipulated in the appointment order and allowed period for which they were appointed to have been elapsed by efflux of time they are not now permitted to turn their back and say that their appointments could not be terminated on the basis of their appointment letters nor they could be treated as temporary employee on contract basis. The submission made by the learned counsel for the respondent to the said effect has no merit and is, therefore, liable to be rejected. It is also well settled law by several other decision of this Court that appointment on ad-hoc basis/ temporary basis comes to an end by efflux of time and persons holding such post have no right to continue on the post and asked for regularization etc.

Similar law has been laid down by their lordship of **Hon'ble Supreme Court reported in 2006 LLR page 68 titled as Punjab State Electricity Board V/s Darbara Singh.** Relevant paras 10 and 11 is reproduced:-

“ 10. The material on record clearly established that the engagement of the workman was for specific period and conditional. It was clearly indicated that on appointment of a regular employees, his engagement was to come to an end.”

11. "In view of the position as highlighted in Morinda Coop. Sugar Mills, Anil Buprao and Batala Cooperatives cases (Supra), the relief granted to the workman by the labour court and the High Court cannot be maintained. "

Similar law has been laid down by their lordship of **Hon'ble Supreme Court reported in 2006 LLR page 1009 titled as Municipal Counsel Samrala V/s Sukhvinder Kaur.**

15. The petitioner is claiming that his services were illegally terminated by the respondent company but the petitioner could not prove how the termination is illegal. The company has issued certain letters expressing the dissatisfaction with the work of the petitioner copy of which is Ex. PW1/A and Ex. D-5, placed on the Court file, whereby the period of probation of the petitioner has been extended only for 3 months and it has been mentioned that this is the last opportunity given to him. When the petitioner failed to improve, the service of the petitioner was terminated by the company. It has come in the evidence of the respondent that they tried to deliver the relieving letter to the petitioner but he refused to accept the same. Further, the letter was sent through post which was received by the petitioner, as per letter Ex. PW-1/D and envelope Ex. PW- 1/E. As the appointment of the petitioner was conditional and he was engaged with the specific condition for one year and thereafter his period has been extended but when the petitioner failed to improve his working, his services were terminated as per clause 5 and 6 of the appointment letter legally. Accordingly issue no-2 is decided against the petitioner.

Issue No.3

16. Onus to prove, issue was on the respondent management but they have failed to show how the present reference is not maintainable. Accordingly issue No-3 is decided against the respondent.

In view of my findings on the aforesaid issues, there is no merit in the present reference, the same is accordingly dismissed. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open court today on this day of 7th November 2007.

(L.N SHARMA)

In the Court of L.N Sharma, Presiding Judge, H.P. Industrial Tribunal –cum- Labour Court, shimla.

Ref No:- 37 of 2002.
Instituted On:- 19.1.2002.

Decided On:- 27.11.2007.

Bhopal Singh S/o Shri Baldoe Singh R/o Village Rasoolpur, P.O. Sidhora, Tehsil & Distt. Yamunanagar (HR). C/o Shri Hari Singh Khanna Village Dera, P.O Hamidpur, Tehsil Nariangrah, Distt. Ambala, (HR). . . *Petitioner.*

Versus

M/s Nahan Ferro Alloys and Chemical (Pvt.) Ltd. Kala-Amb Distt. Sirmaur H.P. . . *Respondent.*

Reference under section 10 of the Industrial Disputes Act, 1947.

For petitioner:- Shri O.P. Chauhan, Advocate.

For respondent :- Shri Youdhvir Singh, Advocate.

AWARD

1. The following reference has been received for adjudication by this Court from the appropriate government:

“Whether the dismissal of the services of Shri Bhopal Singh by the management of M/s Nahan Ferro Alloys and Chemical (Pvt.) Ltd. Kala-Amb Distt. Sirmaur due to his absence from service w.e.f. April 2000 to November 2000 without any sanctioned leave and information is proper and justified? If not, what relief of service benefits and compensation the above workman is entitled to?”

2. The petitioner has filed the claim alleging that he was engaged by the respondent company in Jan. 1990. The petitioner fell ill in April 2000 and thereafter he was taken to the nearest hospital at Sidhora for medical check-up. The petitioner thereafter was taken to Himalyan Institute Dehradun. A major operation was conducted and he remained under medical treatment from April 2000 to October 2000. The medical fitness certificate has been issued by Himalyan Institute which he has presented to the respondent company at the time of joining but he was informed that his services have already been terminated. The respondent company refused to accept his fitness certificate and joining report on 5.11.2000. The removal of the petitioner is illegal, without complying the mandatory provisions of section 25-F of the Industrial Disputes Act, 1947 as no notice or compensation has been paid to him. After the termination of the petitioner junior persons are still working. The termination of the petitioner is illegal and he prayed for his reinstatement.

3. The respondent company has filed the detailed reply taking preliminary objection that the present reference has been wrongly referred by the appropriate government. No demand notice has been served by the petitioner. On merit, they have denied that the petitioner was working with them but alleged that he was working under Rajinder Singh Contractor from 1.3.1992 to 31.7.1998 hence, there is no question of joining the duties with respondent company as he never worked under them. The wife of the petitioner came to the respondent company and taken the wages of the petitioner from the contractor for the month of April. They have denied the remaining contents of the petition and prayed for the dismissal of the same.

4. The petitioner has filed the re-joinder wherein she has controverted the stand taken by the respondent company and re-affirmed the contents of the petition and prayed for the relief.

5. On the basis of the pleadings of the parties, the following issues were framed by this Court on 23.12.2004.

1. Whether the dismissal of the services of the petitioner by the respondent due to his absence from service w.e.f. April 2000 to Nov. 2000 without any sanctioned leave and information is proper and justified? . . *OPP.*
2. If issue No-1 is not proved to what relief of service benefits and compensation, the petitioner is entitled to? . . *OPP.*

3. Whether there exists relationship of master servant between the parties, as alleged in preliminary objection No-1. . . *OPR.*
4. Whether the reference is not maintainable on account of delay and the same has been made in violation of the ID Act, 1947 as alleged in preliminary objection No- 1&3? . . *OPR.*

Relief .

6. In order to prove the case, both the parties lead their evidence. I have heard the learned counsel for the parties and also gone through the record. My findings on the aforesaid issues are as under:-

Issue No-1	Not proved.
Issue No-2	Entitled for reinstatement without seniority and back wages.
Issue No-3	Yes.
Issue No-4	No.
Relief.	Reference partly allowed.

REASON FOR FINDINGS

Issue No: 1&2

7. Both these issues being interlinked and interconnected are taken up together for discussion and decision. To prove the case, petitioner stepped into the witness box and supported the entire contents of the petition. The petitioner has stated that he remained ill as per Ex. PW-1/A to Ex. PW-1/C. He has deputed his wife to take his salary which was given to her. He remained under treatment for about 3 months and after his recovery he reported for duties alongwith fitness certificate but the respondent company refused to accept his joining. No notice or compensation has been paid to him during his illness. He has not abandoned the job. He has been illegally terminated. He prayed for his reinstatement with all benefits. In cross-examination, he has denied that he was working under Shri Rajinder Singh Contractor and after leaving the job of contractor he joined the company on 15.2.1999 where he worked till 31.3.2000. The witness has denied that he stopped coming to his duties after 31.3.2000 without informing the company. He has not given any application to the Labour Inspector that he is ill and could not resume his duties. He do not remember whether he deputed his wife to collect his wages from respondent company however, he received the payment. He remained ill for about 7 months. His ESI card has been prepared. He had gone to ESI Dispensary but there was none to attend him and thereafter he was taken to hospital in a serious condition.

8. PW-2 Shri Hari Singh Khana, who has stated that the petitioner came to the factory in 1990 where he was working since 1987. The petitioner suddenly fell ill and thereafter referred to Sandhora Hospital from where he referred to Dehradun. The petitioner remained seriously ill for 6-7 months. Wife of the petitioner came to the factory and she submitted the application for relief. He was the President of union at that time. After the fitness the petitioner reported for duties but the manager refused to take his joining. The petitioner was told that his service has already been terminated. In cross-examination, the witness has stated that the petitioner was engaged by the respondent company and he was not working under any contractor. He had not seen any Rajinder Singh (Contractor) in the Factory premises. The witness also removed from service when he was

sitting with the petitioner. He do not remember the month and date when the petitioner fell ill. The wife of the petitioner came in his presence who received the payment and also filed the application for leave of the petitioner with the management.

9. The respondent company has also examined one Shri Raghuvir Singh who has stated that the petitioner was working under Rajinder Contractor since 1990 to 1998. He worked in the company only for one year. He suddenly left the job without any information. The wife of the petitioner came after 4 months who has informed that her husband is ill and took the dues of her husband. The petitioner never contacted the company for his reinstatement except the present reference. The petitioner came to the factory after one year and told that he was ill and asked for his dues. The petitioner is presently working somewhere at Dera Bassi. In cross-examination, the witness has admitted that they have not produced the papers of the Contractor in the Court. The wife of the petitioner had not given any application stating that her husband is seriously ill and taken to the hospital however, the witness has admitted that she orally told that her husband was in the hospital. He has denied that the petitioner came in November 2000 with fitness certificate. No notice has been sent to the petitioner for resuming back his duties. He has denied that the petitioner was removed from service without any notice or compensation but stated that the petitioner left the job at his own.

10. From the perusal of the entire oral as well as the documentary evidence, it has been admitted by the respondent company that the petitioner was earlier working under some Contractor Shri Rajinder Singh and later-on he joined the respondent company where he worked for over one year till March/April 2000. It has been admitted that the wife of the petitioner came in the factory and she took the dues of the petitioner and she orally informed the company that her husband is seriously ill and admitted in the hospital. The entire case of the petitioner is that he fell seriously ill and was taken for treatment to Dehradun but unfortunately the petitioner has failed to produce any documentary evidence proving that he was under treatment and after obtaining the fitness certificate he reported for duties in respondent company. It has been proved and even admitted by RW-1 Shri Raghuvir Singh that the petitioner worked for one year in the company that mean more-than 240 days. The petitioner has miserably failed to justify his long absence from service as no medical treatment record has been produced or proved during his examination in the Court. The respondent company on the other hand is equally negligent as they have also not asked the petitioner to report for duties or given him any notice. The respondent witness tried to prove that the petitioner is working somewhere at Detrabassi but no specific evidence has been produced to prove the plea taken in the evidence. The petitioner has failed to prove that his services were terminated by the respondent company w.e.f. 5.11.2000 as, no documentary/orally evidence has been produced by him. The petitioner tried to prove that he reported for duties in presence of PW-2 but the statement of this witness cannot be believed as he is the dismissal employee of respondent company. The petitioner only tendered his three chits from Himalyan Institute/Hospital Dehradun proving that he remained under treatment from 12.5.2000 to 28.7.2000 and he was declared fit to resume his duties on 5.11.2000 as per Ex. PW-1/A to Ex. PW-1/C. As the petitioner has failed to prove that he was terminated by the respondent company or he furnished the joining report alongwith fitness certificate accordingly Issue No-1 is replied against the petitioner and Issue No-2 is partly allowed.

Issue No.3

11. Onus to prove Issue No-3 was on the respondent but they have failed to prove that there exist no relationship of employee and employer between the parties. The respondent witness has proved that the petitioner has worked in the company for over one year after leaving the

services of the contractor meaning thereby that the respondent company has admitted the relationship of employee and employer hence issue No-3 is decided against the respondent.

Issue No.4

12. Onus to prove Issue No-4 was on the respondent but they have failed to prove how the present reference is not maintainable hence, issue No-4 is replied against the respondent. In view of my findings on the aforesaid issues, the present reference is partly allowed and the petitioner is held entitled for his reinstatement without seniority and back wages. Let a copy of this award be sent to the appropriate government for publication in the official gazette. File after completion be consigned to record room.

Announced in the open Court today on this 27th Day of November 2007.

(L.N SHARMA)

In the Court of L. N. Sharma Presiding, Industrial Tribunal-cum-Labour Court Shimla.

Ref.NO.54/2004

Instituted On. 20.2.2004

Decided On 12.11.2007

Shri Kaka Singh , S/o Shri Iqbal Singh, R/o Village Ciliwala Kotri, Tehsil Nahan District Sirmour, H.P. Presently Ex.Chowkidar, HRTC, Nahan H.P. *..Petitioner.*

1. The HRTC through its ,Managing Director with Hqrs Shimla.
2. The Deputy Divisional Manager, HRTC, Region Nahan, Distt. Sirmour H.P. *..Respondent.*

Referenc undr Section 10 of the Industrial Dispute Act, 1947.

For Petitioner: Shri O.P.Sharma, Advocate.

For respondent: Shri Rajesh Verma, Advocate.

AWARD

1. The following reference has been received for adjudication by this Court from the appropriate government :-

“Whether the termination of service of Shri Kaka Singh S/o Shri Iqbal Singh, Part Time Chowkidar by the Regional Manager, HRTC, Nahan, District Sirmour H.P.w.e.f.7.10.2001 without complying with the provisions of Industrial Disputes Act, 1947 is proper and justified? If not, what relief of service benefits and amount of compensation Shri Kaka Singh is entitled to?”

2. The petitioner has filed the claim alleging that he was engaged as Chowkidar by the respondent Corporation in the year 1996. The petitioner has worked for more than 240 days in each

calendar year till 2000, when his services were terminated without any notice or compensation. Juniors to the petitioner are still working with the corporation. There is non-compliance of mandatory provisions of section 25-F of the Industrial Disputes Act, 1947. The removal of the petitioner is illegal and he prayed for the relief.

3. The respondent Corporation has filed the detailed reply taking preliminary objection that the petition is not maintainable as the petitioner abandoned the job himself. On merit, the respondents have admitted that the petitioner was engaged w.e.f.8.5.1996 on part time basis at Haridwar where he worked till October 2001. As, a regular Chowkidar was posted at Haridwar hence, the services of the petitioner were dispensed with. The petitioner was offered work of washing the Buses of Respondent Corporation at Nahan which offer has not been accepted by him. The petitioner was insisting that he be engaged at Haridwar. They have denied the services of the petitioner has been dis-engaged without complying with the provisions of section 25-F of the Industrial Disputes Act, 1947. The petitioner has willfully abandoned his job hence; there was no question of paying any compensation or notice to the petitioner. They have denied that juniors are still working. Accordingly to the respondents, the provisions of section 25-F of the Industrial Disputes Act, 1947 are not applicable in the present case and they prayed for the dismissal of the same.

4. On the basis of the pleadings of the following issues were framed on 28.3.2006.

1. Whether the services of the petitioner has been wrongly terminated by respondent w.e.f.7.10.2001 without complying the provision on I.D.Act,1947? If so, its effect? ..*OPP*

2. If issue No-1 is proved in affirmative to what relief the petitioner is entitled to? ..*OPP*

3. Whether the petition in the present form is not maintainable? *OPR..*

Relief.

5. Both the parties have lead their evidence to prove their case. I have heard the learned counsels for the parties and also gone through the record. My findings on the aforesaid issues are as under.

Issue No-1 Yes.

Issue No-2 Entitled for reinstatement with back wages @ 25%.

REASONS FOR FINDINGS

Issue No-1&2.

6. Both these points being interlinked and interconnected are taken up together for discussion and decision. In order to prove the case, petitioner stepped into the witness box to support his case. The petitioner has stated that he was engaged as Chowkidar at Nahan Depot in 1994 and thereafter he was transferred to Haridwar where he worked as Chowkidar till October 2001. There were two Chowkidars, one was in the rest house and other was in the Bus-stand. The petitioner has worked day and night. His appointment letter is Ex.PA. He has completed 240 days in each calendar year since 1994 till October 2001. No notice or compensation has been given to him before his

removal. He has prayed for all service benefits. In cross examination, he has admitted that one Chowkidar was sent to Haridwar but denied that his services were not terminated or he has been shifted to Nahan for washing the Buses. He has denied that he was insisting to remain at Haridwar or he abandoned the job himself. The witness also denied that no junior persons were working in the Department but clarified that all the persons who were working with him are still in job and they are regularized.

7. The respondent corporation has also examined on Shri Harbans kumar Regional Manger HRTC, Nahan. The witness has stated that the petitioner was engaged on 8.5.1996 as Chowkidar. The petitioner has not worked in 1997 and not reported for duties till 1998. The petitioner had worked till 2001. A regular Chowkidar was deputed from head Office and the petitioner was asked to report for duties at Nahan for washing the buses at a fixed salary of Rs.2000/-P.M.but he has failed to report. In cross Examination, the witness has stated that he had brought the entire record of the case but the attendance register or mouster-roll of the petitioner has not been brought . He has stated that no attendance register/ mouster-roll of the petitioner was prepared. The photocopies of the attendance registrar were shown to the witness and he was having no reply to the question. The witness was unable to admit or denial the photocopies of attendance register. The witness has been deferred and again he was examined on 22.10.2007 on which day he brought the attendance register and muster roll of the petitioner. The witness has not brought the attendance register since 1996 and stated that the record is not traceable. He has admitted that the petitioner was appointed as Chowkidar in HRTC rest house Haridwar on 8.5.1996 as per office order Ex.RA. The petitioner remained posted in the rest house till October 2001. The department was paying the minimum wages to the petitioner as per record.

8. From the perusal of the entire oral as well a documentary evidence it has been proved that the petitioner was engaged in May 1996 as per appointment letter Ex.PA. The petitioner was appointed as part time Chowkidar in HRTC rest house at Haridwar. He respondent Corporation tried to conceal the true picture from the Court as they have not brought the attendance register or mouster roll of the petitioner intentionally to the Court. Even, RW-1 Shri Harbans Kumar Regional Manager HRTC, Nahan was deferred and when he again appeared, he has admitted that the attendance record of the petitioner is not traceable. This witness has admitted that the petitioner remained In the rest house till October 2001 when a Chowkidar was posted. The only stand of the respondent corporation is that the petitioner was offered the alternative job for washing the buses at Nahan but no documentary evidence has been produced which falsify the entire case of the respondent Corporation. On the other hand, the petitioner has proved that he was engaged by the respondent Corporation as per his appointment Letter Ex.PA in May 1996 and he was posted in HRTC rest house Hardiwar. The petitioner remained posted till October 2001 in the rest house when suddenly his services were terminated without the compliance of mandatory provisions of section 25-F of the Industrial; Disputes Act,1947. The removal of the petitioner from the service is held illegal as no notice of compensation has been paid to him, which is required as per provisions of section 25-Fof the Industrial Disputes Act,1947, Accordingly, both these issues are decided in favour of the petitioner and against the respondent .

Issue No.3

9. Onus to prove issue No.3 was on the respondent Corporation but the respondent has failed to prove how the present petition is not maintainable. Accordingly, issue No.3 is decided against the respondent.

In view of my findings on the aforesaid issues, the present reference is allowed and the petitioner is held entitled for his reinstatement with back seniority. The petitioner is also held entitled for back wages @ 25% from February 2004, the day when the reference has been received in the Court. Let a copy of this order be sent to the appropriate government for publication in the official gazette. File after completion be consigned to recode room.

Announced in the open Court today on this 12th day of November, 2007.

(L.N. SHARMA)

Ref.155/2006

Smt. Vidya Devi

V/s

M/s Brass & Gold Engineering Baddi, Nalagarh.

14.11.2007

Present:- Petitioner with Shri J.C.Bhardwaj, AR .

Shri Alok Ranjan, Advocate for the respondent.

Conciliation tried. As per conciliation, the petitioner has consented that she has settled all the dispute with the management for Rs10,000/-as full and final settlement. The petitioner shall report for duty on 15.11.2007. She will be given the seniority excluding the period from 21.12.2004 till 14.11.2007. Sh.M.S Rizvi, Commercial Officer of respondent company has accepted the statement of petitioner.

In view of above settlement the present reference is dismissed as compromised. Let a copy of this order be sent to the appropriate government for publication in the official gazette.

Announced.

Sd/-

*Presiding Judge,
Labour Court, Shimla.*

ब अदालत श्री संजीव शर्मा, सहायक समाहर्ता प्रथम वर्ग, डलहौजी, जिला चम्बा, हिमाचल प्रदेश

श्री नरिन्द्र कुमार पुत्र श्री चमारु राम, निवासी गांव बैली, तहसील डलहौजी, जिला चम्बा, हिमाचल प्रदेश प्रार्थी ।

बनाम

आम जनता

प्रत्यार्थीगण ।

प्रार्थना—पत्र नाम दुरुस्ती बारे ।

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना—पत्र मय ब्यान हल्फी इस आशय से गुजारा है कि उसका सही नाम नरिन्द्र कुमार है जो कि स्कूल प्रमाण पत्रों व पंचायत रिकार्ड में सही दर्ज है लेकिन राजस्व रिकार्ड मुहाल बैली में नरिन्द्र लाल दर्ज है जिसकी दुरुस्ती की जावे ।

इस सम्बन्ध में सर्वसाधारण जनता को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थी के नाम की दुरुस्ती बारे यदि किसी को कोई उजर/एतराज हो तो वह असालतन या वकालतन अदालत अधोहस्ताक्षरी मिति 16-2-2008 को आकर अपना एतराज दर्ज करवा सकता है। हाजिर न आने की सूरत में नाम दुरुस्ती के आदेश दे दिए जाएंगे।

आज दिनांक 15-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

संजीव शर्मा,
सहायक समाहर्ता प्रथम वर्ग,
डलहौजी, जिला चम्बा (हि० प्र०)।

ब अदालत श्री इन्द्र सिंह, सहायक समाहर्ता द्वितीय वर्ग, डलहौजी, जिला चम्बा, हिमाचल प्रदेश

श्री राज कुमार पुत्र श्री साधू राम, निवासी गांव लोहली खड्ड, डाकघर बाथरी, तहसील डलहौजी,
जिला चम्बा, हिमाचल प्रदेश प्रार्थी।

बनाम

आम जनता

प्रत्यार्थीगण।

प्रार्थना-पत्र नाम दुरुस्ती बारे।

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र मय ब्यान हल्फी इस आशय से गुजारा है कि उसका सही नाम राज कुमार है लेकिन राजस्व रिकार्ड में उसका नाम प्रीतम दर्ज है जिसकी दुरुस्ती की जावे।

इस सम्बन्ध में सर्वसाधारण जनता को सूचित किया जाता है कि प्रार्थी के नाम की दुरुस्ती करने पर यदि किसी को कोई आपत्ति हो जो वह असालतन या वकालतन अदालत अधोहस्ताक्षरी मिति 16-2-2008 को आकर एतराज पेश कर सकता है। अन्यथा गैर हाजरी की सूरत में नाम दुरुस्ती के आदेश दे दिए जाएंगे।

आज दिनांक 3-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

इन्द्र सिंह,
सहायक समाहर्ता द्वितीय वर्ग,
डलहौजी, जिला चम्बा (हि० प्र०)।

ब अदालत श्री इन्द्र सिंह, कार्यकारी दण्डाधिकारी, डलहौजी, जिला चम्बा, हिमाचल प्रदेश

श्री राज कुमार पुत्र श्री साधू राम, निवासी गांव लोहली खड्ड, डाकघर बाथरी, तहसील डलहौजी,
जिला चम्बा, हिमाचल प्रदेश प्रार्थी।

बनाम

आम जनता

प्रत्यार्थीगण।

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र मय ब्यान हल्फी इस आशय से गुजारा है कि उसके पुत्रों अमन व नमन की जन्म तिथियां क्रमशः 3-1-2003 व 8-2-2006 हैं, जो कि ग्राम पंचायत ओसल के रिकार्ड में दर्ज न हैं जिसे दर्ज किया जावे।

इस सम्बन्ध में सर्वसाधारण जनता को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थी के पुत्रों अमन व नमन की जन्म तिथियां ग्राम पंचायत के रिकार्ड में दर्ज करने पर यदि किसी को कोई आपत्ति या एतराज हो तो वह दिनांक 16-2-2008 को असालतन या वकालतन अदालत अधोहस्ताक्षरी आकर अपना एतराज पेश कर सकता है अन्यथा गैर हाजरी की सूरत में एक तरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 4-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

इन्द्र सिंह,
कार्यकारी दण्डाधिकारी,
डलहौजी, जिला चम्बा (हि० प्र०)।

ब अदालत श्री इन्द्र सिंह, कार्यकारी दण्डाधिकारी, डलहौजी, जिला चम्बा, हिमाचल प्रदेश

श्री संदीप राय पुत्र श्री सावो राम, निवासी गांव ललहेड़, डाकघर कैहल, तहसील डलहौजी, जिला चम्बा, हिमाचल प्रदेश
प्रार्थी।

बनाम

आम जनता

प्रत्यार्थीगण।

प्रार्थना-पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना-पत्र मय ब्यान हल्फी इस आशय से गुजारा है कि उसकी पुत्री अक्षिता (Akshita) की जन्म तिथि 6-5-2007 है, जो कि ग्राम पंचायत मोरनू के रिकार्ड में दर्ज न है जिसे दर्ज किया जावे।

इस सम्बन्ध में सर्वसाधारण जनता को बजरिया इश्तहार सूचित किया जाता है कि प्रार्थी की पुत्री Akshita की जन्म तिथि ग्राम पंचायत के रिकार्ड में दर्ज करने पर यदि किसी को कोई आपत्ति या एतराज हो तो वह दिनांक 16-2-2008 को असालतन या वकालतन अदालत अधोहस्ताक्षरी आकर अपना एतराज दर्ज करवा सकता है अन्यथा गैर हाजरी की सूरत में एक तरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 31-12-2007 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

इन्द्र सिंह,
कार्यकारी दण्डाधिकारी,
डलहौजी, जिला चम्बा (हि० प्र०)।

ब अदालत श्री प्रताप सिंह ठाकुर, कार्यकारी दण्डाधिकारी एवं तहसीलदार, भटियात, चुवाड़ी, जिला चम्बा, हिमाचल प्रदेश

श्री गगन सिंह पुत्र श्री धर्म चन्द, निवासी गांव छाम्ब, तहसील भटियात, जिला चम्बा, हिमाचल प्रदेश
प्रार्थी।

बनाम

आम जनता

प्रत्यार्थीगण।

विषय.—प्रार्थना—पत्र जेर धारा 13 (3) जन्म एवं मृत्यु पंजीकरण अधिनियम, ग्राम पंचायत कुडनु, तहसील भटियात, जिला चम्बा में अपनी लड़की काजल का नाम व जन्म तिथि 14-12-2005 दर्ज करवाने के सम्बन्ध में।

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में प्रार्थना—पत्र मय ब्यान हल्फी इस आशय से गुजारा है कि उसकी लड़की काजल जिसकी जन्म तिथि 14-12-2005 ग्राम पंचायत कुडनु के रिकार्ड में दर्ज नहीं है जिसे दर्ज किया जाए।

इस सम्बन्ध में सर्वसाधारण को बजरिया इश्तहार सूचित किया जाता है कि काजल का नाम व जन्म तिथि ग्राम पंचायत कुडनु में यदि दर्ज करने पर किसी को कोई आपत्ति/एतराज हो तो वह दिनांक 8-2-2008 को असालतन या वकालतन हाजिर अदालत में होकर अपना एतराज दर्ज करवा सकता है हाजिर न आने की सूरत में उपरोक्त नाम व जन्म तिथि के आदेश दे दिए जाएंगे।

आज दिनांक 7-1-2008 को हमारे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

प्रताप सिंह ठाकुर,
कार्यकारी दण्डाधिकारी एवं तहसीलदार,
भटियात, चुवाड़ी, जिला चम्बा (हि० प्र०)।

ब अदालत श्री जे० आर० भारद्वाज, सहायक समाहर्ता द्वितीय श्रेणी, सियुन्ता, जिला चम्बा, हिमाचल प्रदेश

केस नं० 2-3-XIII-B/08.
19-2-2008.

तारीख पेशी

श्री ज्ञान चन्द पुत्र श्री मोहण, निवासी सपैणा, डाकघर परसियारा, उप-तहसील सियुन्ता, जिला चम्बा, हिमाचल प्रदेश

बनाम

आम जनता

सर्वसाधारण को सूचित किया जाता है कि श्री ज्ञान चन्द पुत्र श्री मोहण, निवासी सपैणा ने इस अदालत में आवेदन—पत्र दिया है कि उसका नाम राजस्व अभिलेख में ज्ञानो दर्ज है। परन्तु पंचायत व आर्मी प्रमाण—पत्र में ज्ञान चन्द दर्ज है। अतः राजस्व अभिलेख में दुरुस्ती करवाई जावे।

अतः अग्रिम कार्यवाही से पहले सर्वसाधारण को इस नोटिस द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को इस नाम ज्ञान चन्द उर्फ ज्ञानो पुत्र श्री मोहण, निवासी सपैणा को राजस्व अभिलेख में दर्ज करने बारे कोई आपत्ति हो तो वह दिनांक 19-2-2008 को सुबह 10.00 बजे मौखिक या लिखित रूप में असालतन या वकालतन एतराज पेश कर सकते हैं। यदि उपरोक्त दिनांक को कोई एतराज पेश न हुआ तो समझा जाएगा कि उक्त नाम को राजस्व अभिलेख में दर्ज करने बारा कोई एतराज न है और नियमानुसार कार्यवाही अमल में लाई जावेगी।

आज दिनांक 17-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

जे० आर० भारद्वाज,
सहायक समाहर्ता द्वितीय श्रेणी,
सियुन्ता, जिला चम्बा (हि० प्र०)।

ब अदालत श्री जे० आर० भारद्वाज, सहायक समाहर्ता द्वितीय श्रेणी, सियुन्ता, जिला चम्बा, हिमाचल प्रदेश

केस नं० 1-3-XIII-B/08.

तारीख पेशी 19-2-2008.

श्री लालो पुत्र श्री मोहन, निवासी सपैणा, डाकघर परसियारा, उप-तहसील सियुन्ता, जिला चम्बा, हिमाचल प्रदेश

बनाम

आम जनता

सर्वसाधारण को सूचित किया जाता है कि श्री लालो पुत्र श्री मोहन, निवासी सपैणा ने इस अदालत में आवेदन-पत्र दिया है कि उसका नाम राजस्व अभिलेख में लालो दर्ज है परन्तु पंचायत व स्कूल प्रमाण-पत्र में लाल चन्द दर्ज है। अतः राजस्व अभिलेख में दुरुस्ती करवाई जावे।

अतः अग्रिम कार्यवाही से पहले सर्वसाधारण को इस नोटिस द्वारा सूचित किया जाता है कि यदि किसी व्यक्ति को इस नाम लालो उर्फ लाल चन्द पुत्र श्री मोहन, निवासी सपैणा को राजस्व अभिलेख में दर्ज करने बारे कोई आपत्ति हो तो वह दिनांक 19-2-2008 को सुबह 10.00 बजे मौखिक या लिखित रूप में असालतन या वकालतन एतराज पेश कर सकते हैं। यदि उपरोक्त दिनांक को कोई एतराज पेश न हुआ तो समझा जाएगा कि उक्त नाम को राजस्व अभिलेख में दर्ज करने बारा कोई एतराज न है और नियमानुसार कार्यवाही अमल में लाई जावेगी।

आज दिनांक 17-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

जे० आर० भारद्वाज,
सहायक समाहर्ता द्वितीय श्रेणी,
सियुन्ता, जिला चम्बा (हि० प्र०)।

ब अदालत श्री जे० आर० शर्मा, कार्यकारी दण्डाधिकारी, उप-तहसील कमरऊ, जिला सिरमौर, हिमाचल प्रदेश

श्री जगदीश पुत्र श्री फतेह सिंह, निवासी बिड़पा (बड़वास), उप-तहसील कमरऊ, जिला सिरमौर, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री जगदीश पुत्र श्री फतेह सिंह, निवासी बिड़पा (बड़वास) उप-तहसील कमरऊ ने इस अदालत में एक प्रार्थना-पत्र गुजारा है कि उसके लड़की/लड़के कु० मनीशा व सुभाष का जन्म क्रमशः 15-3-2001 व 29-5-2002 को हुआ था परन्तु अज्ञानतावश वह उनकी जन्म तिथि ग्राम पंचायत बड़वास के रिकार्ड में दर्ज नहीं करा सका है।

अतः सर्वसाधारण को इस इश्तहार के माफत सूचित किया जाता है कि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 15-2-2008 को प्रातः 10.00 बजे अदालत हजा स्थित कमरऊ में असालतन या वकालतन हाजिर आकर दर्ज करा सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने की सूरत में प्रार्थना-पत्र श्री जगदीश पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 7-1-2008 को मेरे हस्ताक्षर व कार्यालय मोहर अदालत द्वारा जारी किया गया।

मोहर।

जे० आर० शर्मा,
कार्यकारी दण्डाधिकारी,
उप-तहसील कमरऊ, जिला सिरमौर (हि० प्र०)।

ब अदालत श्री वाई० पी० एस० वर्मा, सहायक समाहर्ता प्रथम श्रेणी, रैणुकाजी (संगड़ाह), जिला सिरमौर,
हिमाचल प्रदेश

मिसल नं० : 13/2004

तारीख मरजुआ : 28-1-2004

1. श्री सुरत राम पुत्र श्री देवी राम, 2. श्री ज्ञान चन्द पुत्र श्री कली राम, निवासीगण टिकरी (संगड़ाह),
जिला सिरमौर सायलान।

बनाम

सर्वश्री सुरेश, अशोक, विनोद आदि पुत्रान रामरखू, निवासी टिकरी (संगड़ाह), तहसील रैणुकाजी,
जिला सिरमौर, हिमाचल प्रदेश।

दावा तकसीम मुशत्रका भूमि खाता खतौनी नं० 346/673 ता 701, किता 114 तादादी 243-12 बीघा
शामलात देह हस्ब रसद खेवट, बाका मौजा संगड़ाह (पति टिकरी), तहसाल संगड़ाह, जिला सिरमौर, हिमाचल
प्रदेश।

मुकद्दमा उपरोक्त शामलात देह भूमि तकसीम मौजा संगड़ाह (पति टिकरी) अदालत में विचाराधीन है। जिसमें आगामी तारीख पेशी की सुनवाई 22-2-2008 को निर्धारित की गई है। फ्रीकसानियान निम्नलिखित को अदालत द्वारा बार-बार समन जारी करने पर भी इन्हें तामील नहीं हो पा रही है जिससे अदालत को यकीन हो चुका है कि वह उपरोक्त दावा में कोई पैरवी नहीं करना चाहते और न ही इन्हें साधारण तरीके से तामील हो सकती है। अतः इस अदालती इश्तहार के माध्यम से सर्व श्री/श्रीमती विनोद पुत्र व कु० सरोज, किरण पुत्रियां रामरखू, निवासीगण टिकरी (संगड़ाह), सुमन पत्नी तोता राम, निवासी छूमकर (लोजा) उप-तहसील रोहताट, जगत राम, जोगिन्द्र सिंह पुत्रान मोही राम, निवासी टिकरी, बहादुर सिंह पुत्र मोही राम, निवासी टिकरी (लाबलद फौत) जायज वारिस दावे में शामिल फ्रीकसानियान 7 ता 11 व 13 ता 16 बने हैं शान्ती पत्नी रिखि राम, निवासी डुन्गी, राम देवी, विद्या देवी विधवाएं नेत्र सिंह, निवासी डुन्गी, श्यामा देवी पत्नी दया राम, निवासी ट्यूरी, तहसील रैणुकाजी, वसन्ती पत्नी देवीराम, निवासी ट्यूरी, रामस्वरूप पुत्र मांगा, निवासी सिंयू, उप-तहसील नौहरा, गुड्डी पत्नी केवल राम, निवासी टिकरी (फौत) जायज वारिस विनू पुत्र केवल राम (नाबालिग) जायज वारिस केवल राम पुत्र रामभज, निवासी टिकरी, शिव राम, दया राम पुत्रान हुकमी राम, निवासी ट्यूरी, नारदा पत्नी चान्दन, निवासी भलौना, रामचन्द पुत्र थापा, निवासी टिकरी, मिन्की पत्नी मीना राम, निवासी लगनू (फौत) जायज वारिस हिरदा राम पुत्र मीना राम, निवासी लगनू, हरदेवी पत्नी कुन्दन सिंह, निवासी वावनल, दीपराम पुत्र सही राम, निवासी लगनू, जगदीश, राजेन्द्र, ओम प्रकाश पुत्रान उदयराम, निवासी टिकरी, तारा पत्नी रामस्वरूप, निवासी सिंयू, नाजरो विधवा रामभज, निवासी टिकरी, (फौत) जायज वारिस दावे में शामिल फ्रीकसानियान 50 ता 55 बने हैं। दयावन्ती पत्नी भगत राम, निवासी थनगा, विमला पत्नी बालादत्त, निवासी भौण कड़ियाना, जग मोहन सिंह, ईश्वर चन्द, मोहन लाल पुत्रान दीप राम, निवासी टिकरी, माया पत्नी रूप सिंह, निवासी टूवेरी (फौत) जायज वारिस दावे में शामिल 70 ता 73 फ्रीकसानियान बने हैं। गुड्डी पुत्री दीप राम, निवासी तिरमलगा, राम देवी पुत्री व भागो विधवा भजू, निवासी टिकरी (फौत) जायज वारिस प्रेम चन्द पुत्र कली राम, निवासी संगड़ाह, मथुरा विधवा दीप राम, निवासी डुंगी, दीपो विधवा मोहर सिंह, निवासी टिकरी (फौत) जायज वारिस दावे में शामिल फ्रीकसानियान 96-97 बने हैं।

मधुवाला पत्नी राजेश्वर, निवासी चब्याना, उपतहसील ददाहू, लेख राम पुत्र भगवान सिंह, निवासी टिकरी, सुरभी देवी, विधवा मोतिया, निवासी संगड़ाह, हुकमी पुत्र शंकरू, निवासी टिकरी, जसवन्त सिंह पुत्र सही राम हाल कृषि विभाग, सोलन, हिमाचल प्रदेश, विद्या पुत्री सही राम, निवासी टिकरी, पदमा पुत्री सही राम पत्नी जीवन सिंह, निवासी भजौण्ड, सुनपा विधवा सही राम, निवासी बोरली (फौत), जायज वारिस दावे में शामिल फ्रीकसानियान नं० 120 ता 124 व 126 बनें हैं सुरभी पत्नी चेत सिंह, निवासी ऊंचा टिकर, सरिता पत्नी रमेश, निवासी द्राबिल, किरण पुत्री मीना राम, निवासी टिकरी, प्रियंका पुत्री मनी राम उर्फ मान सिंह, निवासी टिकरी (नाबालिग) बलीसरपरस्ता कान्ता देवी विधवा मानसिंह, निवासी टिकरी (माता नाबालिगान), बसन्त चौहान, शरद कुमार पुत्रान रविन्द्र सिंह, निवासी संगड़ाह, रणदीप सिंह पुत्र बंसी लाल, निवासी संगड़ाह, विक्रम सिंह पुत्रान व कु० मंजरी पुत्री व इन्द्रो देवी विधवा भूपेन्द्र सिंह, निवासी गण संगड़ाह जानकी देवी पत्नी सही राम, निवासी चोकर, शान्ति पत्नी हीरा सिंह, निवासी रेड़ीगुसान, तहसील राजगढ़, कलावती पत्नी जालमू, निवासी देवमानल, सुभद्रा पत्नी राजू, निवासी नौहरा (उलाना), इन्द्रा पुत्री उदय सिंह पत्नी नामालूम, निवासी संगड़ाह, अमरू, मेघरू, कुन्दन पुत्रान सोहजा, निवासी पावरा, (संगड़ाह), जानकी पत्नी दासा राम, निवासी मानलदोची, शान्ती पत्नी रणिया, निवासी सियुं, गुणो पत्नी दीप राम, निवासी रेड़ली, मथुरा पत्नी राम सिंह, निवासी ददाहू, सैना विधवा सोहजा, निवासी पावरा (संगड़ाह), रिखड़ी विधवा मोही राम, निवासी टिकरी (संगड़ाह) (फौत) जायज वारिस दावे में शामिल फ्रीकसानियान नं० 7 ता 11, 13 ता 16 बने हैं। बहादुर सिंह पुत्र मोही राम, निवासी टिकरी (संगड़ाह) लाबल्द फौत, जायज वारिस सु-बधा पत्नी मोही राम, निवासी टिकरी (फौत) जायज वारिस मोहन लाल, मुलतान सिंह, हरी चन्द, अमर चन्द, जोगेन्द्र सिंह पुत्रान मोही राम, निवासी टिकरी व श्यामान पत्नी शिव राम, निवासी टयूरी, तहसील रैणुकाजी, जिला सिरमौर को सूचित किया जाता है कि अगर वह उक्त मुकद्दमा में कोई पैरवी करना चाहें तो वह दिनांक 22-2-2008 को प्रातः 10.00 बजे हमारी अदालत में असालतन/वकालतन हाजर आकर पैरवी मुकद्दमा कर सकते हैं। बाद गुजरने मियाद कोई कार्यवाही काबले समायत न होगी तथा नियमानुसार एक पक्षीय कार्यवाही अमल में लाई जायेगी।

आज दिनांक 11-1-2008 को हमारे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

वाई० पी० एस० वर्मा,
सहायक समाहर्ता प्रथम श्रेणी,
रैणुकाजी, जिला सिरमौर (हि० प्र०)।

ब अदालत श्री वाई० पी० एस० वर्मा, सहायक समाहर्ता प्रथम श्रेणी, रैणुकाजी (संगड़ाह), जिला सिरमौर,
हिमाचल प्रदेश

मिसल नं० : 4/2005

तारीख मरजुआ : 14-1-2005

श्री गीता राम पुत्र श्री जालमू, निवासी ऊंगरकाण्डो, तहसील रैणुका जी, जिला सिरमौर, हिमाचल प्रदेश
आदि सायलान।

बनाम

श्री गुमान सिंह पुत्र श्री प्रेम सिंह, निवासी गांव रजाना, जिला सिरमौर, हिमाचल प्रदेश, आदि
फ्रीकसानियान।

दरखास्त तकसीम भूमि बाबत शामिलता देह, खता खतौनी नं० 132-133/203 ता 234, किता 187,
तादादी 2185-2, बीघा मौजा ऊंगरकाण्डो, तहसील रैणुकाजी, जिला सिरमौर।

मुकद्दमा उपरोक्त भूमि तकसीम शामलात देह मौजा ऊंगरकाण्डो अदालत हजा में विचाराधीन है जिसमें आगामी तारीख पेशी 23-2-2008 मुकरर की गई है। अदालत द्वारा निम्नलिखित फ्रीकसानियान को बार-बार समन जारी करने पर भी तामील नहीं हो रही है जिससे अदालत को पूरा यकीन हो चुका है कि इन्हें अब साधारण तरीके से तामील नहीं हो सकती। अतः इस अदालती इशतहार के माध्यम से फ्रीकसानियान सर्वश्री/श्रीमती विरेन्द्र सिंह पुत्र व कु० हीमा पुत्री प्रेम सिंह (दोनों नाबालिग), निवासी सजाना बलीसरपरस्ता अमरा देवी, सन्तो देवी विधवाएं प्रेम सिंह, निवासी रजाना, सन्तो देवी विधवा प्रेम सिंह, निवासी रजाना, चमेल सिंह पुत्र बली राम, निवासी रजाना (फौत) जायज वारिस....., कान्ता पुत्री बली राम विधवा इन्द्र सिंह, निवासी जामू, द्वारका विधवा राम सिंह, निवासी रजाना, श्रीमती कौला पुत्री मीना, पत्नी मधू, निवासी जामू, प्रेम सिंह, धर्म सिंह पुत्रान जीत सिंह, सुन्दरी, सुमति विधवाएं जीत सिंह, निवासी रजाना, मैना पत्नी मांगा राम, निवासी डाडाखलौर, कुशल सिंह पुत्र हीरा, निवासी रजाना, राधा पत्नी जीत सिंह, तारा विधवा जीत सिंह, निवासी लुधियाना, नौमी विधवा कुन्दन सिंह, निवासी रजाना, बुध राम पुत्र मोती राम, निवासी रजाना, दुर्गी पत्नी शिव राम, निवासी मण्डोली, काल्टी पत्नी बुध राम, निवासी जरग, मुंगी पत्नी रण सिंह, निवासी धलजा, जगत सिंह पुत्र मदन सिंह, निवासी रजाना, सूरत राम पुत्र नकटा, निवासी रजाना, सत्या पत्नी उदय सिंह, निवासी घलजा, जमना विधवा भज्जू, निवासी सजाना, बाबू राम पुत्र महिन्द्र सिंह, निवासी रजाना, इन्द्रा पत्नी भागा राम, निवासी खलौर, शामा, गीता पत्नियां रणदीप, निवासी अरट, लाजो, नौमी विधवाएं रतन सिंह, निवासी रजाना, अमर सिंह, उजागर सिंह पुत्रान सूरत, निवासी रजाना, दलीप सिंह पुत्र रूप सिंह, निवासी सजाना, सुनपा पत्नी जीतसिंह, निवासी जामू, नैन सिंह, उजागर सिंह पुत्रान देवी राम, निवासी जामू, सुरभी पत्नी कल्याण सिंह व कौला पत्नी नीता राम, निवासी रेड़ली, महिन्द्र सिंह, निवासी मोही राम, निवासी रजाना, नरेन्द्र सिंह, गुमान सिंह पुत्रान तुलीया, निवासी रजाना, कौला विधवा भादर सिंह, निवासी रजाना, भगवान सिंह, इश्वर चन्द पुत्रान नैन सिंह, निवासी रजाना, नौमी विधवा नैन सिंह, जयवन्ती पुत्री नैन सिंह, निवासी रजाना, सही राम पुत्र तुलसी राम, निवासी रजाना, सन्तोष पत्नी हरदेव सिंह व लक्ष्मी पत्नी पृथ्वी सिंह, निवासीगण जरग, रहनो विधवा कली राम, निवासी रजाना, हितेन्द्र सिंह, प्रताप सिंह पुत्रान विशना निवासी रजाना, रूप सिंह, कंठी राम, रण सिंह पुत्रान चान्दनू, निवासी रजाना, सजनो विधवा मीना, बलदेव, राजेन्द्र सिंह, परमा नन्द पुत्रान मेहरू, निवासीगण रजाना, जालम सिंह पुत्र बलीया, महिन्द्र सिंह, जीत सिंह, सूरत सिंह पुत्रान मोहर सिंह, निवासीगण रजाना, सुन्दरी पत्नी कुन्दन सिंह, निवासी लुधियाना, कांशिया, शुईया, जागीया पुत्रान राम सिंह, निवासी रजाना, भागो पत्नी नैन सिंह, निवासी क्यारटा, शावणी पत्नी राम सिंह, निवासी कशलोग, महिन्द्र सिंह, मान सिंह, सोहन सिंह पुत्रान गुलाब सिंह, निवासी रजाना, मथुरा पत्नी भगवान सिंह, निवासी मण्डोली, हीरा पुत्र तुलीया, निवासी रजाना, द्वारका पत्नी कल्याण सिंह, निवासी कशलोग, जालम सिंह, कुन्दन सिंह पुत्रान व कांसो विधवा बुध राम, कनवासी रजाना, लीला पत्नी भादर सिंह, निवासी बड़ग, सोमी पुत्री जागर सिंह, निवासी ऊंगर काण्डो, सुनपा पत्नी खेखू, निवासी खाला क्यार, नकटी विधवा तुलीया, निवासी सजाना, किंकरी पुत्री श्रीमती भज्जो, निवासी जरग, अतरो पत्नी दलीप सिंह, निवासी रजाना, सत्या विधवा रतन सिंह, निवासी रजाना, मथुरा पत्नी नामालूम, निवासी धारटारन, मैना पुत्र मनसा राम, रण सिंह, चेतू पुत्रान मीना, मांगी विधवा धर्म सिंह, निवासी ऊंगर, शान्ती पत्नी परमा नन्द, निवासी जरग, जीत राम, पुत्र कांशीया, निवासी ऊंगरकाण्डो, जसमन्त सिंह, गुमान सिंह पुत्रान सुन्दरू, कु० लक्ष्मी देवी, किरण बाला (नाबालिग) पुत्रियां सुन्दरू, निवासी काण्डो बलीसरपरस्ता, शान्ती, सौदा विधवाएं सुन्दरू, निवासी ऊंगरकाण्डो, रती राम पुत्र सोभा राम, निवासी ऊंगरकाण्डो, लाजो विधवा रतनू, निवासी ऊंगरकाण्डो, रविन्द्र, सत पाल पुत्रान रूप सिंह (नाबालिग) बलीसरपरस्ता मथुरा देवी विधवा रूप सिंह, निवासी ऊंगरकाण्डो, मांगी पत्नी सुन्दर सिंह, निवासी मण्डोली, बाबू राम पुत्र गुलाब सिंह, निवासी ऊंगर काण्डो, रणीया, तड़िया पुत्रान विशना, निवासी ऊंगर काण्डो, सुरमी पत्नी रण सिंह, निवासी ऊंगर काण्डो, इन्द्र सिंह, पूर्ण चन्द, मुलतान सिंह, सन्दीप सिंह पुत्रान जालमू, निवासी ऊंगरकाण्डो, धोंका, सुरत, मेहर सिंह पुत्रान ऊंगरकाण्डो (फौत) जायज वारिस अमर सिंह, बलवीर सिंह, रघुवीर सिंह पुत्रान मेहर सिंह, निवासी ऊंगरकाण्डो, चम्पा देवी पत्नी जीवन सिंह, निवासी जामू (कठमली), देविन्द्र सिंह पुत्र राम दास, बुध राम पुत्र मोती राम, निवासी (फौत) जायज वारसान दिनेश, कुलदीप पुत्रान, तुला राम, निवासी ऊंगरकाण्डो, भाग चन्द पुत्र आत्मा राम, निवासी ऊंगर काण्डो, परमा नन्द, राम दत्त, लक्ष्मी चन्द पुत्रान चान्दनू, निवासी माईना घड़ेल, शादी राम पुत्र गौरा शंकर, निवासी माईना घड़ेल, हेम चन्द, भाग चन्द, जिया राम, धर्म चन्द, वेद प्रकाश, घन श्याम पुत्रान रिखी राम, निवासी माईना घड़ेल, श्याम चन्द पुत्र रिखी राम, निवासी चव्याना (फौत) जायज वारिस ओम प्रकाश, प्रेम सिंह पुत्रान श्याम चन्द, शशी कान्त, विक्रान्त पुत्रान प्रेमदत्त, दिनेश विधवा प्रेम दत्त, निवासी ददाहू, चेतू पुत्र सायरू, निवासी कालरिया (फौत) जायज वारिस लीला नन्द, काकू पुत्रान चेतू, भागवन्ती विधवा चेतू, निवासी कालरिया, हाल निवासी डुन्गी

कन्डयोन (पनार), उप-तहसील ददाहू, मांगी पत्नी रूप सिंह, निवासी चामला, भागो पत्नी धर्म सिंह, निवासी माईना, सुन्दरी पत्नी हीरा, निवासी माईना, गजवा पत्नी मुनिया, निवासी चामला, रिखि राम पुत्र जालमू, निवासी कालरियां, राम देवी पत्नी दया राम थनाखेगवा, नैन सिंह पुत्र चिन्मू, निवासी कालरियां (फौत) जायज वारिस साध राम, सूरत राम, दौलत राम पुत्रान नैन सिंह, निवासी कालरियां, बुध राम पुत्र मुंगलू, निवासी ऊंगर काण्डो, तारा देवी पत्नी जीवन सिंह, निवासी घाटो, मधू वाला पत्नी गोपाल सिंह, निवासी खड़कोली, मुन्नी विधवा सुन्दर सिंह, निवासी धार टारन (बढौन), इश्वर चन्द पुत्र सुरत राम, निवासी ऊंगर काण्डो, जालमू उर्फ जालम सिंह पुत्र नान्दू, सुरती पत्नी झांगरू, निवासी ऊंगरकाण्डो, मेहन्दी पुत्री नान्दू, निवासी काकोग, राईया पुत्र शंकर, सुन्दर सिंह पुत्र लेबरू, सुरतो विधवा लेबरू, निवासी ऊंगरकाण्डो, शावणी पत्नी बुधिया, सुमति पत्नी मांग राम, निवासी डाडाखलौर, सोहन सिंह, भाग चन्द, रघुवीर सिंह पुत्रान झांगरू, निवासी ऊंगरकाण्डो, ईश्वर चन्द, वेद प्रकाश पुत्र श्रीमती लाजो देवी, निवासी डाडाखलौर, (नाबालिग) बजरिये बलीसरपरस्ता पिता नाबालिग शंकरू, निवासी डाडाखलौर कुन्दन पुत्र चिंगू, निवासी ऊंगरकाण्डो, मुगली पत्नी जीतू, निवासी ऊंगरकाण्डो, सुरतो विधवा झांगरू, ऊंगरकाण्डो, दुर्गा पत्नी मांगा राम, निवासी पनार, सुरमी पत्नी जीत सिंह, निवासी रजाना, कमला पत्नी बस्ती राम, निवासी बाग (माईना), सत्या विधवा प्रेम सिंह, निवासी माईना, लच्छी पत्नी अमर सिंह, निवासी माईना, केदो विधवा झांगरू, निवासी ऊंगरकाण्डो, रती राम पुत्र सोभा राम, निवासी ऊंगर (फौत) जायज वारिस मान सिंह पुत्र रती राम, निवासी माईना, बुध राम पुत्र मंगलू, निवासी ऊंगर काण्डो (फौत) जायज वारिश संदीप कुमार पुत्र बुध राम, निवासी ऊंगर, जगत सिंह पुत्र मदन सिंह, निवासी रजाना (फौत) कुन्दन सिंह पुत्र प्रेम सिंह, निवासी रजाना, को सूचित किया जात है कि अगर वह मुकद्दमा उपरोक्त में कोई पैरवी करना चाहें तो वह दिनांक 23-2-2008 को प्रातः 10.00 बजे अदालत हजा में उपस्थित होकर अपना उजर/एतराज प्रस्तुत कर सकते हैं। बाद गुजरने मियाद कोई कार्यवाही काबले समायत न होगी तथा नियमानुसार एक पक्षीय कार्यवाही अमल में लाई जाएगी।

आज दिनांक 8-1-2008 को हमारे हस्ताक्षर व मोहर अदालत से जारी किया गया।

मोहर।

वाई० पी० एस० वर्मा,
सहायक समाहर्ता प्रथम श्रेणी,
रेणुकाजी (संगड़ाह), जिला सिरमौर (हि० प्र०)।

ब अदालत श्री पी० सी० अकेला, एच०ए०एस०, उप-मण्डल दण्डाधिकारी एवं स्पेशल मैरिज आफिसर सदर,
जिला बिलासपुर, हिमाचल प्रदेश

राम लाल सुपुत्र श्री कांशी राम, निवासी चकली, डा० चान्दपुर, तहसील सदर, जिला बिलासपुर, हिमाचल प्रदेश।

एवम्

कमली देवी सुपुत्री श्री बंसी राम, निवासी कसाल, डा० बौहट, कसोल, तहसील सदर, जिला बिलासपुर, हिमाचल प्रदेश।

बनाम

आम जनता

विषय—नोटिस स्पेशल मैरिज एक्ट, 1954 के अन्तर्गत विवाह पंजीकृत करने बारे।

इस अदालत में उपरोक्त प्रार्थीगण ने स्पेशल एक्ट, 1954 के अन्तर्गत विवाह को पंजीकृत करने बारे दरखास्त पेश की है कि वह आपस में कानूनी तौर पर अपना विवाह पंजीकृत करवाना चाहते हैं।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि किसी को विवाह को पंजीकृत करने में किसी किस्म की आपत्ति व एतराज हो तो वह इस अदालत में असालतन या वकालतन हाजिर होकर दिनांक 15-2-2008 को अपना उजर व एतराज पेश कर सकता है।

आज दिनांक 3-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

पी० सी० अकेला,
उप-मण्डल दण्डाधिकारी एवं स्पेशल मैरिज आफिसर सदर, जिला
बिलासपुर, हिमाचल प्रदेश।

**IN THE COURT OF SHRI D. C. NEGI, SUB-DIVISIONAL MAGISTRATE, SHIMLA (R),
DISTRICT SHIMLA (H. P.)**

Smt. Sonu Devi w/o Shri Randhir Singh, r/o Village & P.O. Badheri via Totu, Tehsil &
District Shimla . . Applicant.

Versus

General Public

Subject.—Application under section 13(3) of the Birth & Death Registration Act, 1969.

Whereas Smt. Sonu Devi w/o Shri Randhir Singh, r/o Village & P.O. Badheri via Totu, Tehsil & District Shimla has filed an application alongwith affidavit in the Court of undersigned under section 13(3) of the Birth & Death Registration Act, 1969 to correct her name as Gurpreet Kaur *alias* Sonu Devi in Panchayat record.

Hence, this proclamation is issued to the general public if any objection/claim regarding the change of name, they may file their claims/objection on or before one month from the publication of this notice in the Rajpatra, in this Court, failing which necessary orders will be passed to Gram Panchayat Totu.

Given today the 10th January, 2008 under my signature and seal of the Court.

Seal.

D. C. NEGI,
*Sub-Divisional Magistrate,
Shimla (R), District Shimla (H. P.).*

ब अदालत श्री अनुपम कुमार, कार्यकारी दण्डाधिकारी लाहौल, स्थान केलांग, जिला लाहौल एवं स्पिति,
हिमाचल प्रदेश

श्री वीर सिंह पुत्र श्री पंछी राम, गांव कोठी, तहसील लाहौल

बनाम

आम जनता

विषय.—ग्राम पंचायत गोहरमा के जन्म एवं मृत्यु पंजीकरण रजिस्टर में नाम दर्ज करने बारे।

श्री वीर सिंह पुत्र स्व० श्री पंछी राम, गांव कोठी, तहसील लाहौल ने शपथ—पत्र व प्रार्थना—पत्र सहित आवेदन किया है कि उनके दादा जी का नाम राजस्व अभिलेख में बुध राम दर्ज है जो कि सही दर्ज है परन्तु ग्राम पंचायत गोहरमा के जन्म एवं मृत्यु पंजीकरण रजिस्टर में देवी राम दर्ज है जो कि गलत दर्ज है साथ ही प्रार्थी के चाचा का नाम राजस्व अभिलेख में टशी राम पुत्र श्री देवी राम दर्ज है जो कि सही दर्ज है परन्तु ग्राम पंचायत गोहरमा के जन्म एवं मृत्यु पंजीकरण रजिस्टर में फुन्चोग पुत्र श्री बुध राम दर्ज है जो कि गलत दर्ज है। अतः अम प्रार्थी अपने पिता के पिता/दादा/जीका नाम ग्राम पुचायत गोहरमा के जन्म एवं मृत्यु पंजीकरण रजिस्टर में देवी राम के स्थान पर श्री बुध राम तथा अपने चाचा फुन्चोग का नाम परिवार रजिस्टर में टशी राम पुत्र देवी राम दर्ज करवाना चाहता है।

अतः इस इशतहार द्वारा सर्वसाधारण व हितबद्ध व्यक्ति को सूचित किया जाता है कि यदि किसी को श्री वीर सिंह के दादा का नाम ग्राम पंचायत गोहरमा के जन्म एवं मृत्यु पंजीकरण रजिस्टर में बुध राम दर्ज करने तथा उनके चाचा फुन्चोग का पंचायत परिवार रजिस्टर में टशी राम पुत्र श्री देवी राम दर्ज करने सम्बन्धी कोई आपत्ति हो तो वह दिनांक 1-2-2008 को या इससे पूर्व अधोहस्ताक्षरी के समक्ष असालतन व वकालतन उपस्थित होकर अपनी आपत्ति दायर कर सकता है तिथि समाप्ति के पश्चात् कोई भी उजर व एतराज समायत नहीं होगा तथा नियमानुसार प्रार्थना—पत्र कार्यवाही की जाएगी।

आज दिनांक 20-12-2007 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

अनुपम कुमार,
कार्यकारी दण्डाधिकारी, लाहौल
स्थान केलांग, जिला लाहौल एवं स्पिति (हि० प्र०)।

ब अदालत श्री अनुपम कुमार, कार्यकारी दण्डाधिकारी लाहौल, स्थान केलांग, जिला लाहौल एवं स्पिति,
हिमाचल प्रदेश

श्री यंगजोर पुत्र श्री तोबदन, गांव छीका, तहसील लाहौल

बनाम

आम जनता

विषय.—ग्राम पंचायत दारचा सुम्दो के जन्म एवं मृत्यु पंजीकरण रजिस्टर में नाम दर्ज करने बारे।

श्री यंगजोर पुत्र श्री तोबदन, गांव छीका, तहसील लाहौल ने शपथ—पत्र व प्रार्थना—पत्र सहित इस अदालत में आवेदन किया है कि उनके पुत्र का नाम सरकारी कागजातों में तंजिन डाकोंग दर्ज है जो कि सही नाम है परन्तु ग्राम पंचायत दारचा सुम्दो के जन्म एवं मृत्यु पंजीकरण रजिस्टर में प्रेम चन्द दर्ज है जो कि गलत हो गया है। अतः अब प्रार्थी ग्राम पंचायत दारचा सुम्दो के जन्म एवं मृत्यु पंजीकरण रजिस्टर में प्रेम चन्द के स्थान पर अपने पुत्र का नाम तंजिन डाकोंग दर्ज करवाना चाहता है।

अतः इस इशतहार द्वारा सर्वसाधारण व हितबद्ध व्यक्ति को सूचित किया जाता है कि यदि किसी को श्री यंगजोर के पुत्र का नाम ग्राम पंचायत दारचा सुम्दो के जन्म एवं मृत्यु पंजीकरण रजिस्टर में प्रेम चन्द काट कर उसके स्थान पर तंजिन डाकोंग दर्ज करने सम्बन्धी कोई आपत्ति हो तो वह दिनांक 1-2-2008 को या

इससे पूर्व अधोहस्ताक्षरी के समक्ष असालतन व वकालतन उपस्थित होकर अपनी आपत्ति दायर कर सकता है तिथि समाप्ति के पश्चात् कोई भी उजर व एतराज समायत नहीं होगा तथा नियमानुसार प्रार्थना-पत्र कार्यवाही की जाएगी।

आज दिनांक 20-12-2007 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

अनुपम कुमार,
कार्यकारी दण्डाधिकारी, लाहौल
स्थान केलांग, जिला लाहौल एवं स्पिति (हि० प्र०)।

ब अदालत श्री अनुपम कुमार, कार्यकारी दण्डाधिकारी लाहौल, स्थान केलांग, जिला लाहौल एवं स्पिति,
हिमाचल प्रदेश

श्रीमती हीर दासी पत्नी श्री शेर सिंह व श्री वीर सिंह, गांव गौशाला, तहसील लाहौल

बनाम

आम जनता

विषय.—ग्राम पंचायत गौशाला के जन्म एवं मृत्यु पंजीकरण रजिस्टर में नाम दर्ज करने बारे।

श्रीमती हीर दासी पत्नी श्री शेर सिंह व श्री वीर सिंह, गांव व कोठी गौशाला, तहसील लाहौल ने शपथ-पत्र व प्रार्थना-पत्र सहित आवेदन किया है कि उन्होंने शेर सिंह व वीर सिंह के साथ बहुपति प्रथा के मुताबिक विवाह किया है। शेर सिंह उनके साथ उनके तीन लड़के हैं जिनके नाम रमेश चन्द, राकेश कुमार व दिनेश कुमार हैं जबकि वीर सिंह का एक सन्तान है जिसका नाम राजेश कुमार है। परन्तु ग्राम पंचायत गौशाला के परिवार रजिस्टर में उनके पुत्र राजू व उनके पिता का नाम शेर सिंह दर्ज है जो कि गलत दर्ज हुआ है। जब कि राजू का सही नाम राजेश कुमार तथा पिता का नाम वीर सिंह है। अब प्रार्थिनी ग्राम पंचायत गौशाला के जन्म एवं मृत्यु पंजीकरण रजिस्टर में राजू का नाम राजेश तथा उनके पिता का नाम शेर सिंह के स्थान पर वीर सिंह दर्ज करवाना चाहता है।

अतः इस इशतहार द्वारा सर्वसाधारण व हितबद्ध व्यक्ति को सूचित किया जाता है कि यदि किसी को श्रीमती हीर दासी के पुत्र राजेश कुमार पुत्र श्री वीर सिंह का नाम ग्राम पंचायत गौशाला के जन्म एवं मृत्यु पंजीकरण रजिस्टर में राजू पुत्र श्री शेर सिंह काट कर उसके स्थान पर राजेश कुमार पुत्र श्री वीर सिंह दर्ज करने सम्बन्धी कोई आपत्ति हो तो वह दिनांक 20-2-2008 को या इससे पूर्व अधोहस्ताक्षरी के समक्ष असालतन व वकालतन उपस्थित होकर अपनी आपत्ति दायर कर सकता है तिथि समाप्ति के पश्चात् कोई भी उजर व एतराज समायत नहीं होगा तथा नियमानुसार प्रार्थना-पत्र पर कार्यवाही की जाएगी।

आज दिनांक 31-12-2007 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

अनुपम कुमार,
कार्यकारी दण्डाधिकारी, लाहौल
स्थान केलांग, जिला लाहौल एवं स्पिति (हि० प्र०)।

मुकद्दमा नं० 2/2008

तारीख दायरा 7-1-2008

तारीख पेशी 10-3-2008

धर्म सिंह पुत्र श्री पठानू राम, निवासी महाल घुमेहड़, मौजा लूहना, तहसील बड़ोह, जिला कांगड़ा (हि० प्र०) प्राथी।

बनाम

आम जनता आदि

विषय.—राजस्व अभिलेख में धर्म चन्द उपनाम धर्म सिंह पुत्र पठानू राम दर्ज करने बारे प्रार्थना-पत्र।

इश्तहार बनाम प्रतिवादीगण (आम जनता)।

उपरोक्त प्रार्थी ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसका नाम हर जगह धर्म सिंह पुत्र श्री पठानू राम दर्ज चला आ रहा है लेकिन राजस्व अभिलेख में उसका नाम धर्म चन्द दर्ज चला आ रहा है। प्रार्थी ने प्रार्थना-पत्र में अनुरोध किया है कि उसका नाम राजस्व अभिलेख में धर्म चन्द उपनाम धर्म सिंह पुत्र श्री पठानू राम दर्ज किया जाए।

अतः सर्वसाधारण (आम जनता) को इस इश्तहार द्वारा सूचित किया जाता है कि अगर किसी व्यक्ति को प्रार्थी नाम राजस्व अभिलेख में धर्म चन्द उपनाम धर्म सिंह दर्ज करने बारे कोई एतराज/उजर हो तो वह असातन/वकालतन इस अदालत में तारीख पेशी 10-3-2008 को प्रातः 10.00 बजे हाजर आकर पेश कर सकता है। हाजर न आने की सूरत में यकतरफा कार्यवाही अमल में लाई जाकर मुकद्दमा की सुनवाई करते हुए अन्तिम आदेश पारित कर दिए जाएंगे। बाद में कोई भी उजर/एतराज नहीं सुना जाएगा और न मान्य होगा।

आज दिनांक 7-1-2008 को मोहर अदालत व मेरे हस्ताक्षर द्वारा जारी हुआ।

मोहर।

हस्ताक्षरित/—

सहायक समाहर्ता प्रथम श्रेणी,
बड़ोह, जिला कांगड़ा (हि० प्र०)।

ब अदालत श्री शिव लाल बन्सल, नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी धर्मशाला,
जिला कांगड़ा, हिमाचल प्रदेश

मुकद्दमा नं०

श्री सुरेन्द्र कुमार

बनाम

आम जनता

विषय.—प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री सुरेन्द्र कुमार पुत्र श्री नूरद सिंह, निवासी दाड़ी, तहसील धर्मशाला, जिला कांगड़ा ने इस अदालत में शपथ-पत्र सहित मुकद्दमा दायर किया है कि उसकी पुत्री रितीका रायल की जन्म दिनांक 8-10-2004 है परन्तु ग्राम पंचायत दाड़ी में जन्म पंजीकृत न है। अतः इसे पंजीकृत करने के आदेश दिए जाएं।

इस नोटिस के द्वारा समस्त जनता को तथा सम्बन्धित सम्बन्धियों को सूचित किया जाता है कि यदि किसी को उपरोक्त रितीका रायल का जन्म पंजीकृत किए जाने बारे कोई एतराज हो तो वह अपना एतराज

हमारी अदालत में दिनांक 23-2-2008 को असातन या वकालतन हाजिर आ कर पेश कर सकता है अन्यथा मुताबिक शपथ-पत्र जन्म तिथि पंजीकृत किए जाने बारे आदेश पारित कर दिये जाएंगे।

आज दिनांक 11-1-2008 को हमारे हस्ताक्षर व मोहर अदालत द्वारा जारी किया गया।

मोहर।

शिव लाल बन्सल,
नायब तहसीलदार एवं कार्यकारी दण्डाधिकारी,
धर्मशाला, जिला कांगड़ा (हि० प्र०)।

ब अदालत श्री किरपा राम भारद्वाज, तहसीलदार व सहायक समाहर्ता प्रथम श्रेणी खुण्डियां,
जिला कांगड़ा, हिमाचल प्रदेश

प्रकरण सं० 33/2007/T

किस्म मु० भूमि विभाजन

तिथि दायरा 1-10-2007

तिथि पेशी 16-2-2008

उनवान मुकद्दमा :

विपत राम

बनाम

खेम चन्द व अन्य

सम्मन/नोटिस बनाम

1. श्री खेम राज शर्मा, CSSD, New DMC, हस्पताल लुधियाना, 2. संदेश शर्मा c/o खेम राज शर्मा CSSD, New DMC हस्पताल लुधियाना, 3. श्याम लाल शर्मा, Gas Plant, New DMC, हस्पताल लुधियाना, 4. श्रीमती तृप्ता देवी, निवासी जांगला, डाकघर आलमपुर, तहसील जयसिंहपुर, जिला कांगड़ा, 5. पुष्पा कुमारी पत्नी श्री मनोहर लाल शर्मा, निवासी भरयालू, डा० एरला, तहसील व जिला कांगड़ा सभी प्रत्यार्थीगण।

विषय— प्रार्थना-पत्र बराए भू०-विभाजन खाता नं० 42, खतौनी नं० 62, खसरा नं० 461, तादादी 0-06-75 है०, वाक्या महाल सिहोटी, मौजा महादेव, तहसील खुण्डियां, जिला कांगड़ा, हिमाचल प्रदेश, मुन्दर्जा जमाबन्दी, साल 2001-2002.

उपरोक्त वर्णित मुकद्दमा में उपरोक्त वर्णित प्रत्यार्थीगण को कई बार इस अदालत से सम्मन भेजे गए, किन्तु अवितरित प्राप्त हुए। इसके अतिरिक्त पंजीकृत पत्रों द्वारा भी उपरोक्त प्रतिवादीगणों को सम्मन भेजे गए, किन्तु उपरोक्त वर्णित प्रत्यार्थीगणों की तामील न हो सकी। अतः इस न्यायालय को विश्वास हो चुका है कि उपरोक्त वर्णित प्रतिवादीगणों की साधारण ढंग से तामील होना असम्भव है। अतः इस इशतहार राजपत्र हि० प्र० प्रकाशन के माध्यम से उपरोक्त वर्णित प्रतिवादीगणों को सूचित किया जाता है कि वह 16-2-2008 को

असालतन या वकालतन हाजर होकर वर्तमान प्रकरण की पैरवी करें अन्यथा गैर हाजरी की सूरत में एकतरफा कार्यवाही अमल में लाई जाएगी।

आज दिनांक 2-1-2008 को मेरे हस्ताक्षर व मोहर अदालत सहित जारी हुआ।

मोहर।

किरपा राम भारद्वाज,
तहसीलदार व सहायक समाहर्ता प्रथम श्रेणी,
खुण्डियां, जिला कांगड़ा (हि० प्र०)।

कार्यालय मैरिज आफिसर अण्डर मैरिज एक्ट 1954 एवं उप-मण्डल मैजिस्ट्रेट नूरपुर,
जिला कांगड़ा, हिमाचल प्रदेश

1. कै० अमित पठानियां सुपुत्र श्री के० एस० पठानियां, निवासी वास्सा वजीरां, तहसील नूरपुर, जिला कांगड़ा (हि० प्र०)।
2. मीनाक्षी सुपुत्री श्री हेम राज डढवाल, निवासी म० नं० 469, गली नं० 17, राजपुरा, जम्मू-01, हाल साकन वास्सा वजीरां, तहसील नूरपुर, जिला कांगड़ा (हि० प्र०)।

बनाम

आम जनता

विषय—इश्तहार बाबत शादी पंजीकरण बारे।

उपरोक्त आवेदकों ने मेरे सम्मुख आवेदन किया है कि उन्होंने आपस में विवाह कर लिया है जिसे वह पंजीकृत करवाना चाहते हैं।

इस लिए मैं इन्द्र सिंह भारद्वाज, हिमाचल प्रशासनिक सेवा, मैरिज आफिसर अण्डर स्पेशल एक्ट, 1954 एवं उप-मण्डल मैजिस्ट्रेट नूरपुर, जिला कांगड़ा, हिमाचल प्रदेश विशेष विवाह अधिनियम 1954 की धारा 16 में प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करता हूं कि यदि किसी व्यक्ति को इस विवाह के पंजीकरण बारे कोई आपत्ति हो तो वह मेरे कार्यालय में किसी भी कार्य दिवस में आकर या दिनांक 18-2-2008 को असालतन या वकालतन हाजिर होकर अपनी आपत्ति अर्ज करवा सकता है अन्यथा उक्त विवाह नियमानुसार पंजीकृत कर दिया जाएगा।

आज दिनांक 7-1-2008 को मेरे हस्ताक्षर व कार्यालय मोहर द्वारा जारी हुआ।

मोहर।

हस्ता०/—
उप-मण्डल मैजिस्ट्रेट नूरपुर,
जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत श्री यशोधन सिंह ठाकुर, तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी, इन्दौरा,
जिला कांगड़ा, हिमाचल प्रदेश

केस नं० /2008

तारीख पेशी 19-2-2008

किस्म मुकद्दमा : नाम दुरुस्ती।

कुकू राम उपनाम रविन्द्र कुमार पुत्र श्री राम सरन, साकन भटोली, तहसील इन्दौरा, जिला कांगड़ा, हिमाचल प्रदेश प्राथी।

बनाम

आम जनता

विषय— प्रार्थना—पत्र दुरुस्ती नाम खुद रिकार्ड माल वाक्या महाल भटोली, मौजा भेहड़ी, तहसील इन्दौरा, बाबत खाता नं० 94, 95 व 96.

उपरोक्त प्रार्थी ने अधोहस्ताक्षरी की अदालत में हाजिर हो कर निवेदन किया है कि राजस्व अभिलेख में उसका नाम कुकू राम पुत्र श्री राम सरन दर्ज है। जबकि उसका वास्तविक नाम रविन्द्र कुमार पुत्र श्री राम सरन है जिससे प्रार्थी को कई कठिनाइयों का सामना करना पड़ रहा है। अतः प्रार्थी अपने नाम की राजस्व अभिलेख में दुरुस्ती करवाना चाहता है।

प्रार्थी के अनुरोध को स्वीकृत करते हुए इस इशतहार राजपत्र के माध्यम से आम जनता को सूचित किया जाता है कि राजस्व अभिलेख में दुरुस्ती बारे कोई आपत्ति हो तो वह दिनांक 19-2-2008 को असालतन या वकालतन उपस्थित हो कर अपनी आपत्ति अधोहस्ताक्षरी के न्यायालय में पेश कर सकता है। अन्यथा इस तारीख को किसी प्रकार की आपत्ति या एतराज प्ररुतुत न होने की सूरत में एक पक्षीय कार्यवाही अमल में लाते हुए राजस्व अभिलेख में कुकू राम स्थान पर कुकू राम उपनाम रविन्द्र कुमार के नाम की प्रविष्टि दर्ज करने के आदेश पारित कर दिए जाएंगे।

आज दिनांक 2-1-2008 को मेरे हस्ताक्षर व मोहर न्यायालय सहित जारी हुआ।

मोहर।

यशोधन सिंह ठाकुर,
तहसीलदार एवं सहायक समाहर्ता प्रथम श्रेणी,
इन्दौरा, जिला कांगड़ा, हिमाचल प्रदेश।

ब अदालत श्री वी० एस० गर्ग, तहसीलदार एवं कार्यकारी दण्डाधिकारी शाहपुर, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश

श्री महिन्द्र कुमार पुत्र श्री उत्तम चन्द, निवासी योल झरेड़, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना—पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री महिन्द्र कुमार पुत्र श्री उत्तम चन्द, निवासी योल झरेड़ ने एक प्रार्थना—पत्र गुजारा है कि उसकी लड़की कार्तिका कौडल का जन्म दिनांक 11-10-2002 को हुआ है। परन्तु अज्ञानतावश उसकी जन्म तिथि ग्राम पंचायत प्रेई के रिकार्ड में दर्ज नहीं करा सका है।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 23-2-2008 को प्रातः 10.00 बजे अदालत हजा शाहपुर में असालतन या

वकालतन हाजिर आकर अपना एतराज पेश का सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री महिन्द्र कुमार पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 7-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

वी० एस० गर्ग,
तहसीलदार एवं कार्यकारी दण्डाधिकारी, शाहपुर,
तहसील शाहपुर, जिला कांगड़ा (हि० प्र०)।

ब अदालत श्री वी० एस० गर्ग, तहसीलदार एवं कार्यकारी दण्डाधिकारी शाहपुर, तहसील शाहपुर, जिला
कांगड़ा, हिमाचल प्रदेश

श्री बसन्त कुमार पुत्र श्री निक्का राम, निवासी घयराड़ा, डाकघर रिडकमार, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम
आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री बसन्त कुमार पुत्र श्री निक्का राम, निवासी घयराड़ा ने एक प्रार्थना-पत्र गुजारा है कि उसकी लड़की अरिचता भारती का जन्म दिनांक 11-10-2003 को हुआ है। परन्तु अज्ञानतावश उसकी जन्म तिथि ग्राम पंचायत रिडकमार के रिकार्ड में दर्ज नहीं करा सका है।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 23-2-2008 को प्रातः 10.00 बजे अदालत हजा शाहपुर में असालतन या वकालतन हाजिर आकर अपना एतराज पेश का सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री बसन्त कुमार पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 7-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

वी० एस० गर्ग,
तहसीलदार एवं कार्यकारी दण्डाधिकारी, शाहपुर,
तहसील शाहपुर, जिला कांगड़ा (हि० प्र०)।

ब अदालत श्री वी० एस० गर्ग, तहसीलदार एवं कार्यकारी दण्डाधिकारी शाहपुर, तहसील शाहपुर, जिला
कांगड़ा, हिमाचल प्रदेश

श्री राम सिंह पुत्र श्री गुरदास राम, निवासी टुलियार, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री राम सिंह पुत्र श्री गुरदास राम, निवासी टुलियार ने एक प्रार्थना-पत्र गुजारा है कि उसके लड़के गुलरान कुमार का जन्म दिनांक 19-11-1998 को हुआ है। परन्तु अज्ञानतावश उसकी जन्म तिथि ग्राम पंचायत कैरी के रिकार्ड में दर्ज नहीं कर सका है।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 23-2-2008 को प्रातः 10.00 बजे अदालत हजा शाहपुर में असालतन या वकालतन हाजिर आकर अपना एतराज पेश का सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री राम सिंह पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 7-1-2008 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

वी० एस० गर्ग,
तहसीलदार एवं कार्यकारी दण्डाधिकारी, शाहपुर,
तहसील शाहपुर, जिला कांगड़ा (हि० प्र०)।

ब अदालत श्री वी० एस० गर्ग, तहसीलदार एवं कार्यकारी दण्डाधिकारी शाहपुर, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश

श्री रमेश कुमार पुत्र श्री मस्त राम, निवासी भनालवासा, डाकघर भनाला, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री रमेश कुमार पुत्र श्री मस्त राम, निवासी भनालवासा ने इस अदालत में प्रार्थना-पत्र गुजारा है कि उसके लड़के मोहित कुमार का जन्म दिनांक 6-12-2002 को हुआ है। परन्तु अज्ञानतावश उसकी जन्म तिथि ग्राम पंचायत भनाला के रिकार्ड में दर्ज नहीं करा सका है।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 23-2-2008 को प्रातः 10.00 बजे अदालत हजा शाहपुर में असालतन या वकालतन हाजिर आकर अपना एतराज पेश का सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री रमेश कुमार पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 22-12-2007 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

वी० एस० गर्ग,
तहसीलदार एवं कार्यकारी दण्डाधिकारी, शाहपुर,
तहसील शाहपुर, जिला कांगड़ा (हि० प्र०)।

ब अदालत श्री वी० एस० गर्ग, तहसीलदार एवं कार्यकारी दण्डाधिकारी शाहपुर, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश

श्री रघुवीर सिंह पुत्र श्री कौडू राम, निवासी कुनैश, डाकघर रैहलू, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री रघुवीर सिंह पुत्र श्री कौडू राम, निवासी कुनैश ने एक प्रार्थना-पत्र गुजारा है कि उसकी लड़की रजना कुमारी का जन्म दिनांक 11-9-1998 को हुआ है। परन्तु अज्ञानतावश उसकी जन्म तिथि ग्राम पंचायत रैहलू के रिकार्ड में दर्ज नहीं करा सका है।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 23-2-2008 को प्रातः 10.00 बजे अदालत हजा शाहपुर में असालतन या वकालतन हाजिर आकर अपना एतराज पेश का सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री रघुवीर सिंह पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 2-11-2007 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

वी० एस० गर्ग,
तहसीलदार एवं कार्यकारी दण्डाधिकारी, शाहपुर,
तहसील शाहपुर, जिला कांगड़ा (हि० प्र०)।

ब अदालत श्री वी० एस० गर्ग, तहसीलदार एवं कार्यकारी दण्डाधिकारी शाहपुर, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश

श्री अनिल कुमार पुत्र श्री प्रलाहद, निवासी लाम, डाकघर वौह, तहसील शाहपुर, जिला कांगड़ा, हिमाचल प्रदेश।

बनाम

आम जनता

प्रार्थना-पत्र जेर धारा 13(3) जन्म एवं मृत्यु पंजीकरण अधिनियम, 1969.

श्री अनिल कुमार पुत्र श्री प्रलाहद, निवासी लाम, तहसील शाहपुर ने एक प्रार्थना-पत्र गुजारा है कि उसकी लड़की मधुवाला का जन्म दिनांक 8-3-2003 को हुआ है। परन्तु अज्ञानतावश उसकी जन्म तिथि ग्राम पंचायत हार वौह के रिकार्ड में दर्ज नहीं कर सका है।

अतः सर्वसाधारण को इस इशतहार द्वारा सूचित किया जाता है कि यदि इस बारे किसी को कोई उजर/एतराज हो तो वह दिनांक 23-2-2008 को प्रातः 10.00 बजे अदालत हजा शाहपुर में असालतन या वकालतन हाजिर आकर अपना एतराज पेश का सकता है। निर्धारित अवधि के पश्चात् कोई आपत्ति प्राप्त न होने पर प्रार्थना-पत्र श्री अनिल कुमार पर नियमानुसार कार्यवाही की जाएगी।

आज दिनांक 3-10-2007 को मेरे हस्ताक्षर व मोहर अदालत से जारी हुआ।

मोहर।

वी० एस० गर्ग,
तहसीलदार एवं कार्यकारी दण्डाधिकारी, शाहपुर,
तहसील शाहपुर, जिला कांगड़ा (हि० प्र०)।

हिमाचल प्रदेश ग्यारहवीं विधान सभा

अधिसूचना

संख्या: वि०स०-विधायन-शपथ/1-2/2008 दिनांक धर्मशाला-176215 11 जनवरी, 2008

भारतीय संविधान के अनुच्छेद 188 के अनुसरण में हिमाचल प्रदेश विधान सभा के निम्न सदस्यों ने सभा में अपना स्थान ग्रहण करने से पूर्व राज्यपाल द्वारा इस प्रयोजन हेतु अधिसूचना जी०ए०डी (पी ए)४(डी)-7/90, 9 जनवरी, 2008 द्वारा नियुक्त सामयिक अध्यक्ष, श्री रिखी राम कौंडल के समक्ष 11 जनवरी, 2008 को शपथ ग्रहण की :-

- 1 प्र० प्रेम कुमार धूमल (26-बमसन)
- 2 श्री गुलाब सिंह (66-जोगिन्द्र नगर)
- 3 श्री ईश्वर दास धीमान (27- मेवा)
- 4 श्री जगत प्रकाश नड्डा (21- विलासपुर)
- 5 श्री रविन्द्र सिंह (41-धुरल)
- 6 श्री किशन कपूर (48-धर्मशाला)
- 7 श्री नरेन्द्र बरागटा (4- जुब्बल-कोटखाई)
- 8 श्री रमेश चन्द (40-ज्वालामुखी)
- 9 डा० राजीव विन्दल (14- सोलन)
- 10 श्रीमती सरवीन चौधरी (47-शाहपुर)
- 11 श्री तेजवन्त सिंह (1-किन्नौर)
- 12 श्री नन्द लाल (2-रामपुर)
- 13 श्री वीरभद्र सिंह (3-रोहडू)
- 14 श्री सुभाष चंद मंगलेट (5- चौपाल)
- 15 श्रीमती विद्या स्टोक्स (6- कुमारसेन)
- 16 श्री राकेश वर्मा (7- ठियोग)
- 17 श्री सुरेश भारद्वाज (8- शिमला)
- 18 श्री सोहन लाल (9-कुसुम्पटी)
- 19 श्री गोविन्द राम (10-अर्की)
- 20 श्रीमती विनोद कुमारी (11- दून)
- 21 श्री हरि नारायण सिंह (12- नालागढ़)
- 22 डा० राजीव सैजल (13-कसौली)

- 23 श्री गंगु राम मुसाफिर (15-पच्छाद)
- 24 डा० प्रेम सिंह (16-रेणुका)
- 25 श्री हर्षवर्धन चौहान (17-शिलाई)
- 26 श्री सुख राम (18-पांवटा-दून)
- 27 श्री कुश परमार (19- नाहन)
- 28 श्री रणधीर शर्मा (20-कोटकैहलूर)
- 29 श्री राजेश धर्माणी (22-घुमारवीं)
- 30 श्री सुखविन्द्र सिंह सुक्खु (24-नदौन)
- 31 श्रीमती उर्मिल ठाकुर (25- हमीरपुर)
- 32 श्री बलदेव शर्मा (28-नदौनता)
- 33 श्री बलवीर सिंह (29-गगरेट)
- 34 श्री राकेश कालिया (30-चिन्तपुरनी)
- 35 श्री मुकेश अग्निहोत्री (31-सन्तोषगढ़)
- 36 श्री सतपाल सिंह सत्ती (32-ऊना)
- 37 श्री वीरेन्द्र कंवर (33-कुटलेहड़)
- 38 श्री राकेश पठानिया (34-नूरपुर)
- 39 श्री देस राज (35-गंगथ)
- 40 श्री राजन सुशान्त (36-जवाली)
- 41 श्री नीरज भारती (37-गुलेर)
- 42 श्री निखिल राजौर (मनू शर्मा) (38-जसवां)
- 43 श्री योग राज (39-परागपुर)
- 44 श्री आत्मा राम (42-राजगीर)
- 45 श्री सुधीर शर्मा (43-बैजनाथ)
- 46 श्री प्रवीन कुमार (44-पालमपुर)
- 47 श्री विपिन सिंह परमार (45-सुलाह)
- 48 श्री जी. एस. बाली (46-नगरोटा)
- 49 श्री संजय चौधरी (49-काँगड़ा)
- 50 श्री कुलदीप सिंह पठानिया (50-भटियात)
- 51 श्रीमती रेणू चड्ढा (51-बनीखेत)
- 52 श्री सुरेन्द्र भारद्वाज (52-राजनगर)
- 53 श्री बाल कृष्ण चौहान (53-चम्बा)
- 54 श्री तुलसी राम (54-भरमौर)

- 55 डॉ० रामलाल मारकण्डा (55-लाहौल और स्पीति)
- 56 श्री गोविन्द सिंह ठाकुर (56-कुल्लू)
- 57 श्री खिमी राम (57-बन्जार)
- 58 श्री किशोरी लाल (58-आनी)
- 59 श्री हीरा लाल (59-करसोग)
- 60 श्री जय राम ठाकुर (60-चच्योट)
- 61 श्री दिले राम (61-नाचण)
- 62 श्री रूप सिंह (62-सुन्दरनगर)
- 63 श्री प्रकाश चौधरी (63-बल्ह)
- 64 श्री इन्द्र सिंह (64-गोपालपुर)
- 65 श्री महेन्द्र सिंह (65-धर्मपुर)
- 66 श्री कौल सिंह (67-दरंग)
- 67 श्री अनिल कुमार (68-मण्डी)

जे०आर० गाज़टा, भा.प्र.से.,
सचिव,
हि० प्र० विधान सभा।

